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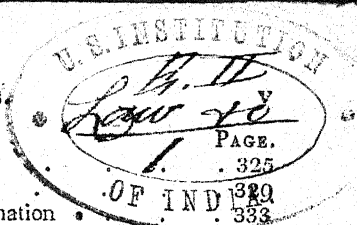
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TRIAL

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SIR JOHN MURRAY, BART.

FIRST DAY.

Monday, January 16, 1815.

At a General Court Martial held at Winchester, on Monday the 16th of January, 1815, in virtue of a Special Warrant from His Royal Highness the PRINCE REGENT, dated the 21st of October, 1814.

The Warrant was read.

The Warrant by the Judge Advocate General, to Francis Seymour Larpent, Esq. to act as Deputy Judge Advocate, was read.

Judge Advocate. Sir John Murray, I am now about to swear the Members of the Court, the President you have no right to object to, as he is named in the Warrant; the remainder you have a right to object to if you please, as they are called to be sworn.

Lieut.-General Sir John Murray. Sir, I can object to no one of the Members.

The following Officers were sworn as Members of the Court :—

General SIR ALURED CLARKE, K. G. C. B. President.

General GEORGE HARRIS.

General OLIVER NICHOLLS.

General LORD CHARLES FITZROY.

General SIR GEORGE BECKWITH, K. G. C. B.

General EARL LUDLOW, K. G. C. B.

Lieut.-Gen. SIR CHARLES GREEN.

Lieut.-Gen. FORBES CHAMPAGNE.

Lieut.-Gen. The HON. HENRY GEORGE GREY.

B

Lieut.-Gen. The Hon. Sir E. PAGET, K. G. C. B.

Lieut.-Gen. WILLIAM SPENCER.

Lieut.-Gen. GEORGE PORTER.

Lieut.-Gen. Sir SAMUEL AUCHINCLOSS, K. G. C. B.

Lieut.-Gen. MOORE DISNEY.

Lieut.-Gen. H. TUCKER MONTRESSOR.

The Deputy Judge Advocate took the oath required.

The Charges were read as follow :

1st. For landing or continuing on shore when landed, between the 7th and the 12th of June, near Tarragona, a large quantity of heavy artillery, ammunition, and stores, when he had good reason to believe that no real benefit would be derived, for ten or twelve days, as to producing the fall of Tarragona by these means; and when he had received information, which he believed, that long before that time, a superior force of the enemy would be near him; and was aware that the siege must then be abandoned, knowing at the same time the great difficulty and dangers attending a sudden re-embarkation on that coast; such conduct being highly unmilitary, and against the spirit of his instructions.

2d. For neglect of duty and disobedience of the express written orders of his Excellency Field Marshal the Marquis of Wellington, the Commander of His Majesty's forces in the Peninsula, by not immediately re-embarking the whole of the forces under his command, after he had determined to raise, and had actually raised, the siege of Tarragona, and returning to Valencia in order to assist the Spanish armies in that province in securing the positions which they might have acquired there.

3d. For neglect of duty in hastily re-embarking the forces under his command, without any previous preparations or arrangements, and thus precipitately and unnecessarily abandoning a considerable quantity of artillery, stores, and ammunition, about the 12th of June, 1813, near Tarragona, when he was so far from being compelled to this degrading measure by the immediate approach of any superior force, or by any other sufficient cause, that by due zeal, firmness, and exertion, the greater part, if not the whole, might have been embarked in safety, Admiral Hallowell, who was at that time on duty at the station, engaging to effect the same, such conduct being highly to the prejudice of the service, and detrimental to the British military character.

Judge Advocate. General Murray; do you admit yourself to be properly described in the warrant?

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Lieut.-Gen. Sir John Murray. I do.

Judge Advocate. Do you plead Not Guilty?

Lieut.-Gen. Sir John Murray. Not Guilty,

Judge Advocate. As this case has excited some interest, the Court presume that there may be some persons present with a view to take notes for publication, and the Court desire me to request, that they will not publish partial statements from day to day, but that they will wait till the whole is over, that the public may be enabled to form an impartial judgment the same as the Court does; it is usual to express this opinion on the part of the Court; this is a case which peculiarly requires it, and I have no doubt it will be attended to, as it has been in other instances. It is understood that all witnesses except Admiral Hallowell will withdraw, and that if they stay in the room, they will not be permitted to be examined.

The Witnesses accordingly withdrew.

Judge Advocate.

Mr. President and Gentlemen,

The high rank and station of Lieut.-General Sir John Murray, whose military character at the least, if not his honor, must, in a great measure, depend upon your decision in this case—the important command which he enjoyed at the period when the supposed misconduct, as detailed in the charges took place—the consequence attached to that misconduct by the public at large—the general interest which has been excited from the prevailing notion, that the glory of the British arms has been tarnished—the reputation of Vice-Admiral Hallowell, an officer who stands amongst the foremost in the Sister service, in consequence of whose official report to Sir Edward Pellew, this trial became almost a matter of necessity, and whose character must be affected with the imputation of haste and over zeal, if this Court shall be ultimately of opinion that that report was without sufficient foundation—all these considerations, united to a variety of others, which must occur to the minds of every member of this Honorable Court, will, I am certain, insure the most patient attention to this investigation, and render all further observations on that subject, idle and unnecessary. Had these proceedings taken place immediately after the event, a caution might, indeed, have been requisite, to banish from your recollections every thing which you might previously have heard on this subject, and to reject from your minds every impression and opinion which you might hastily, and without sufficient

that which he had stated to Sir Edward Pellew, or on the other, for General Murray to vindicate his character from the imputations and charges made against him. In a very few days three charges were framed accordingly, and having been somewhat altered, and finally approved by his Grace, they were forwarded in their present form to England for the approbation of the Prince Regent. At the same time the Duke, as I understood, pointed out the almost insuperable difficulties which would arise in the formation of an adequate tribunal in Spain from a variety of causes. Out of the small number, comparatively speaking, of General Officers serving in the Eastern army, it was probable that a large proportion would be required as witnesses, and it must be obvious, that the remainder would not, on various accounts, be the fittest persons principally to compose the tribunal by which General Murray was to be tried, especially at that period when the transactions were recent. To spare any considerable number of General Officers from the Western army to assist in the formation of the court on the Eastern coast was quite impossible, and even if the difficulties of removing the necessary witnesses from the Eastern army to the Western, could have been surmounted, without the most serious injury to the service in consequence, which would in all probability have arisen; even in that case the Duke conceived that from the nature of his position and operations, it would have been almost equally impossible to assemble a proper tribunal in his own army at such a moment. In about another month, which was at that time the usual period of receiving answers from England, the Duke received instructions to proceed on these three charges, which were approved as soon as ever opportunity should arise, and the very peculiar difficulties of the case would permit. This brought us to the end of September, 1813. Before any arrangements could be at all thought of as to the formation of the court, at a moment when the armies were both in a state of active operations, the first step to be taken was to endeavour to ascertain, and if possible, to collect the necessary witnesses. Accordingly, early in October, 1813, I enclosed to General Murray a copy of the present charges, and requested him to forward in answer to head-quarters, a list of the witnesses he should require in his defence; and as the Duke of Wellington did not appear to be the proper person to give instructions to Admiral Hallowell, I also, by desire of the former, wrote about the same time to the Judge Advocate in England

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to request that a copy of the charges inclosed by me, might be forwarded in the regular course of communication to the Admiral, and that he might be at the same time directed to support the statements contained in his letter when called upon at the intended trial, and in the mean time as far as possible to keep together, and in readiness, the witnesses whom he should require. Directions to this effect were accordingly forwarded to Admiral Hallowell from the Admiralty on the 14th of November, 1813. My letter to General Murray was not received until December 13, 1813, and I never received his answer until February, 1814, when a duplicate copy, containing a hasty list of the witnesses, required by him came to hand; the original, I conclude, had been by some accident lost. Previous to this, however, I had received a letter from Admiral Hallowell, dated December 18, and inclosing a list of Spanish witnesses, all of high rank in the Spanish service, whom he requested to be summoned on his behalf by the Duke of Wellington in support of his statements. Having communicated this list to the Commander of the Forces, he immediately made application accordingly to the Spanish government to obtain the sanction of the proper authorities for the examination of those witnesses as requested by Admiral Hallowell; and in the mean time directions were given in some measure to keep together the English witnesses named by General Murray. After some considerable interval, the answer arrived from the Spanish Regency, assenting to the proposed examination of the Spanish officers, provided it should take place according to the Spanish forms and regulations for persons of their rank and situation. Application was then made to the chief of the Spanish Staff, General Wimpfius, to know precisely what the Spanish law and forms were on this subject. The substance of the answer received from him in Spanish was, that officers of the rank of Colonel and upwards (which was the case as to all the officers named by Admiral Hallowell) were to be questioned by means of written interrogatories, to be submitted to them by the Fiscal of the Military Court, and that through the intervention of the same person they were to return their written answers on honour only, and not upon oath. This method was according to our laws and feelings on the subject so irregular and illegal, that I stated to the Duke of Wellington, that such a mode of examination could only be adopted by the express consent of the officer under trial, after he should have been informed of the illegality, and of his right to

object to it, for the purpose of vindicating his own character, in which case, I should certainly advise the court to consent to its reception. We were now arrived at March, 1814, just after the battle of Orthes. At that period I informed General Murray by letter of all that had passed, of the causes of the delay hitherto, and of the little prospect there was of the trial taking place for a considerable time, as the Duke of Wellington had just communicated to me the resolution he had then formed of ordering away the Eastern army, which would separate the naval and military witnesses, and entirely prevent the formation of any court on the Eastern coast; even if it should be determined to proceed without the Spanish testimony altogether. Early in the month of April, 1814, I received another letter from General Murray, which I feel it peculiarly proper on his account to mention to this court, as in answer to what I had hinted at in my letter to him, as to his consenting to the irregular mode of examination of the Spanish officers. He stated to me, that he was prepared, in order to hasten and facilitate these proceedings, to accede to this Spanish custom, and to consent, notwithstanding the disadvantages it would place him under, to these written depositions being received in evidence upon certain very equitable conditions, which he pointed out, and which, I believe, would not have been materially inconsistent with the Spanish Law. The court will therefore be pleased to observe, that so far from having been the cause of the delay which had arisen from inevitable circumstances, Sir John Murray was very willing to remove all impediments, and to make considerable sacrifices for the purpose of accelerating the trial; and I am therefore very anxious to be understood, that when endeavouring to remove all just grounds of blame from other parties, I am very far from intending to cast any insinuations or imputations in this respect upon General Murray.

The contents of this last letter were communicated by me to the Commander of the Forces, just about the period of the Battle of Tholouse; and I need scarcely state, that his answer was, that at such a moment nothing could be done. The important events which succeeded, and the absence of the Duke afterwards at Paris and Madrid, prevented any further steps being taken for a considerable time. At length being much pressed from England to bring this business to a conclusion, the Duke still, however, foreseeing many difficulties and objections to the plan which he

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adopted, sent orders from Madrid, whilst the army was near Bourdeaux, for the formation of a General Court Martial at Tarragona, to be composed of officers named by him out of his own army, and who were directed accordingly to be prepared to proceed immediately to the Eastern Coast of Spain for this purpose. Upon his return, however, shortly afterwards to Bourdeaux, on his way through Paris to England, such strong representations were made to him by the intended President General Cole, and other officers, as to the impropriety of the case of General Murray being investigated by a Tribunal composed of Officers who were all of them so much his juniors in the service, and of the delicacy they felt upon the subject on that account, and more particularly as to the very unusual circumstance and irregularity, if not actual illegality, of holding a General Court Martial upon a British Officer, in a Foreign Garrison, in a Foreign Country, after our own army had left that country, that never having fully approved of the plan, he was induced to give orders to suspend all proceedings until he should have submitted these points to England, and further instructions should be received in consequence. The result was, that, after the Duke's representations had been considered in England, orders came from thence, for all parties concerned, to return home, as it was finally fixed, that the intended trial should take place in England as soon as possible. This determination, if not a matter of absolute necessity, appears, at least, in the present state of affairs, to have become by far the most advisable line of conduct to pursue. One principal advantage of a trial in the Peninsula, namely, the convenience that would arise in that event as to the examination of the Spanish officers, had, from the mode in which they were to be examined, if at all, become of no importance, and, from a letter which I had received from the Admiral, I rather conceived, that he would not wish to bring forward this evidence at all upon the terms proposed, though still anxious that it should be produced in a regular and legal manner, by the usual mode of examination on oath. Thus one great inducement which had at first existed to proceeding in the Peninsula, was quite at an end; and on the other hand, the advantages to be derived *here*, in being thus enabled to have a much more competent tribunal, and one more according to the usual practice in the service, was obvious. I have now only to add, on this part of the subject, that the time which has elapsed since this last resolution was adopted, until the meeting of this Court, has been employed in collecting the various Naval

and Military witnesses from all parts of Europe, as soon as they could be relieved, and the exigencies of the service would conveniently permit their return; and in making another attempt to procure the attendance of the Spaniards, by a fresh application to the present Spanish Government for that purpose, offering to pay all reasonable expences. This latter attempt has, however, hitherto, as I am authorized to state, been made without success.

To make the case more particularly, as to the two first charges, as intelligible as possible, I shall now feel it my duty, in the next place, shortly to point out the positions of the different armies, and the general state of affairs, considered in a military aspect, on the Eastern coasts of Spain, previous to the transactions which are to be the subject of the present enquiry. I shall then direct the attention of the Court more particularly to such parts of the instructions given by the Commander of the British Forces in the Peninsula to Sir John Murray, as I have to contend, were neither in the letter nor in the spirit complied with. And, lastly, in support and in proof of this assertion, and of what is contained in the two first charges, I shall mainly argue and rely upon the very best of all evidence, as against General Murray, namely, the various passages in his own letters on the subject, and the different statements which he has forwarded of his own conduct on the occasion, the whole of which will be produced in evidence, and which, for the purposes of proving the two first charges only, I shall consider, in every respect, as a correct and faithful detail of all that passed, and of the motives by which General Murray was actuated. It is almost entirely from this most unobjectionable source, that I shall derive all the facts, and deduce all the arguments, which appear to me necessary to make out, to the satisfaction of the Court, every assertion contained in the two first charges. The evidence to be produced from other quarters will, if any, be comparatively of little importance. It is from the accounts and statements forwarded by General Murray himself, as far as the two first charges are concerned, that he must be absolved or condemned.

With regard to the 3d charge, it is grounded, as I have already stated, almost entirely on the official report of Rear Admiral Hallowell to Sir Edward Pellew, relative to the conduct of Sir John Murray; and as that report must necessarily come before the court, at some period or other; and General Murray, as well as Admiral Hallowell, has requested its production, I think it will lead to the better

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understanding of the Case, to have it read in the outset. Admiral Hallowell, your original letter is with Sir Edward Pellew.

Rear Admiral Sir Benjamin Hallowell—It is.

Judge Advocate—As you most probably have a Copy, if you will have the goodness to follow this, which is the next best evidence, as I read it, you will point out any variance.

Rear Admiral Sir Benjamin Hallowell. I will follow you as you read it.

Judge Advocate. This is a Copy sent by Earl Bathurst to the Duke of Wellington for his consideration.

It was read as follows:—

His Majesty's ship Malta, off the Coll de Ballaguer, 14th June, 1813.

SIR,—My letter of the 12th instant announced to you the determination which Sir John Murray had taken, of immediately raising the siege of Tarragona, and embarking the army. The embarkation accordingly commenced that morning. I am sorry to inform you, that as no measures whatever had been previously adopted towards retiring, it took place with great precipitation, and twenty-one pieces of ordnance were in consequence abandoned and left behind in their batteries: namely, eleven 24-pounders, five 10-inch mortars, and five 10-inch howitzers, which were spiked and their carriages burned by order of the Commander of the Forces, although it was my decided opinion and advice to wait till night, when I promised to embark the whole.

The embarkation continued all night; and after the troops were on board, our boats were employed in bringing off a brigade of artillery, staff horses, mules, &c. the whole of which, with every thing appertaining, were got on board by eleven in the forenoon of yesterday, without the smallest molestation.

When we began to embark, a great part of the cavalry and field artillery were sent on to the Coll de Ballaguer. Having received information in the night that the enemy had formed a pass to come round that fort, and were getting on their rear, I sent the Volcano and gun-boats to protect them, and the General himself took a passage in the Volcano.

From the various reports we have had respecting the garrison of Tarragona, it consisted of from 12 to 1600 men at the time of our arrival, but no report has made it exceed 1600. I have never yet learned that any of the enemy's

moveable force was nearer to us than Villa Franca, and there is no ground for believing, that the division, which had come thither from Barcelona, under De Caen, consisted of more than 5,000.

The Strombolo returned from Torradembara yesterday evening, and Captain Stoddart relates, that he there saw a person who had left Villa Franca at half past seven the same morning, by whom he was informed, that the French had not then left the place, nor seemed to have any immediate intention of leaving it, that their number was 5000, and that their artillery was composed of two small mountain guns carried upon mules, two field pieces, and one howitzer.

Yesterday morning we saw the enemy destroying the batteries, and removing the ordnance therefrom, into the garrison; but we could not perceive their numbers to be greater than when we were besieging the town.

As soon as the embarkation was completed at Tarragona, I came round to Ballaguer, in the Malta, to assist in embarking the cavalry and artillery sent hither. Before my arrival, however, Captain Adam had embarked all the latter, and Sir John Murray has since signified his resolution to disembark the whole army here, for which purpose I have, by his desire, ordered all the transports hither, and they are now coming in. Suchet is within a few miles of us.

As our whole forces must be supplied with water from the ships, and knowing as I do, by experience, the indecisiveness of the General's character, I do not augur any favourable result from his intended operations. We have already been disgraced more than any British army ever was; and I fear that every movement, made by the present Commander, will add to its disasters.

Deeming it of the greatest importance that Lord Wellington should be early and certainly acquainted with these deplorable proceedings, I have sent Captain Carroll, in the Hyacinth, to land at Alicant, and make his way across the country to his Lordship's head quarters.

I have put Lieutenant Boxer, first Lieutenant of the Malta, in the temporary command of the Volcano.

I beg leave to mention, that the embarkation of the troops was effected under the immediate direction of Captains Bathurst, Inglefield, and Carroll, to whose exertions I am much indebted; and it would be unjust if I omitted to represent, that every commendation is due to those of Captain Withers, and the Agents for Transports

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under him, in the performance of their laborious duties throughout the whole of this service.

I have the honour to be, &c.

Vice Admiral,
Sir Edward Pellew.

BEN. HALLOWELL.

Rear Admiral Sir Benjamin Hallowell. That is a copy of my letter.

Judge Advocate. Admiral Hallowell is I understand fully prepared (as far as circumstances permit) to support by evidence the assertions he has made.

Rear Admiral Sir Benjamin Hallowell. I am.

Judge Advocate. How far that will be the case the Court on the 3d charge will have to determine; and I need scarcely hint, that, although for the purposes of justice, in order to prove the two first charges, I shall be willing to take all the arguments and statements of General Murray as correct and well founded, the Admiral will, nevertheless, of course, be at liberty to controvert and disprove any thing therein contained by proper evidence; and I take it for granted, it is his intention at least to make the attempt—Any general observations which it may occur to me to make, as the Officer of the Crown, in going through the different documents which I shall give in evidence, in order to point out any matter which may seem to me to be material to assist the court in forming its opinion on this last charge, will probably not meet with any objection, but as that charge is, in truth, preferred by Admiral Hallowell, being the immediate consequence and natural result of his Public Report, and as his Character is therefore as I have before observed in some respects, and to a certain degree at least, involved in the result, and as I am in a great measure ignorant of the nature of the evidence to be produced by Admiral Hallowell, I must beg to refer to the statement which will be made by him as the Prosecutor on that charge, and to the witnesses to be produced by him in its confirmation—and being assured that the Court from its anxiety to attend to every thing which may be material towards the thorough investigation of the present subject of enquiry will listen with the utmost attention to the address of the Admiral, and the proofs adduced by him in its support, I shall confine myself merely to using my best endeavours to prevent any waste of time by enquiries which may be either irregular or irrelevant.

With the two first charges, the Court must now have already observed the Admiral is quite unconcerned; he appears

only in support of the last, which must be, in a great measure, considered as a distinct and separate proceeding; this will account for, and explain to the Court, as well the different views with which the several charges appear to have been framed, as any apparent contradiction which, on a first perusal, might otherwise seem to exist in the three, when taken together.

That the Charges are, in reality, however, contradictory, is what I by no means intend to admit. On the contrary, I submit to this Court, that, when the different views with which they were framed are attended to, they are all perfectly reconcilable and consistent.

By the first it is contended, that the siege of Tarragona was, in many respects, and in the mode, at least, continued too long, and without object; thus incurring the probable risk of loss and injury (which, in fact, ensued after all reasonable prospect of success, even in General Murray's own opinion, was at an end), conduct in a general point of view, as I have to submit, unmilitary and against the spirit of his instructions.

The second Charge sets out a more specific breach of his instructions, in that having determined to raise the siege, Sir John Murray did not immediately pursue the line of conduct clearly pointed out to him, by immediately re-embarking the whole of his Army, and returning to the coast of Valencia. Instead of which, it will appear, that only a part was re-embarked, and that part was again, very shortly afterwards, relanded on the coast, at a small distance to the Southward.

Then comes the third Charge, quite distinct from the other two, namely, that when the General had, at length, determined to raise the siege, and to re-embark from the spot where he first landed, near Tarragona, the manner of so doing was unnecessarily, and without adequate cause, hurried and precipitate; and, that in consequence thereof, the Allied Army was, in a great measure, crippled as to its future operations during the campaign; and thus prevented from taking all the advantage, which it otherwise might have done, of the successes obtained by the Duke of Wellington on the western side of Spain: and, in the second place, the very nature and character of the operation of raising the siege of Tarragona was thus, from the manner in which it was carried into execution, entirely altered, and important trophies abandoned to the enemy, of which he might, either by greater precaution, arrangement, and firmness originally, or

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more zeal and less precipitation at the last, in a considerable degree, if not totally, have been deprived.

The decision on the two first Charges will depend upon the Judgment of the Court, on carefully comparing the instructions given, with the conduct actually pursued, under existing circumstances, as stated by General Murray, in his own reports; taking it for granted, as I have stated, that for this purpose such reports are accurately correct.

On the 3d Charge, the decision will depend upon the opinion formed by the Court, when the evidence to be adduced by Admiral Hallowell shall have been heard and answered as to the manner in which the resolution of raising the siege, when once adopted, was put into execution, either altogether independent of the instructions received, or, even supposing that, by those instructions, the measure itself to be carried into effect, at a proper time, and in a proper military mode, was completely justifiable.

Previous to the undertaking the expedition in question, the French army had occupied so strong a position on the line of the Xucar, that it was not judged expedient with the Allied Armies, composed as they then were, to run the risk, and undergo the certain loss, of a direct attack on its front, without weakening its numbers previously by a movement on its flank or rear—To accomplish this object, two plans offered themselves to the Commander of the Forces, the one of which, the main spring and effort, would have been a movement of a considerable portion of the Allied Armies by Requena and Utiel, and also on the North, by Tortosa and Lerida, to co-operate on the right flank of the French, and so towards the rear of their position. The other of which, the leading and principal feature, would be a Naval expedition, landing a considerable force at some distance in the rear of the enemy's left flank. The first plan, in the then condition of affairs, must necessarily have been so difficult and circuitous, and the result of it, at last, so doubtful, that the latter, if practicable, was very much to be preferred—In pursuance of these ideas, detailed memoranda of instructions were accordingly given by the Duke of Wellington, to Lieut.-General Sir John Murray; they bear date April 14th, 1813, and will presently be produced and read at length in Court, as the most important evidence in this Case, as the foundation on which the proof of the two first charges will rest against General Murray, and as a document upon which I have reason to think he will mainly rely in his defence against the 3d; provided a body of men to the

number of 10,000 at the least, and of the description specified, could be embarked on the naval expedition, it was then directed to take effect, and, in such case, the following objects of the expedition were most distinctly pointed out.

1st. To obtain possession of the open part of the Kingdom of Valencia.

2ndly. To obtain an establishment on the Sea Coast, north of the Ebro, so as to open a communication with the army of Catalonia; and eventually

3dly. To oblige the enemy to retire from the Lower Ebro.

The order of the 2nd and 3d objects being left to Sir John Murray's discretion, according to circumstances.

The instructions then proceed, that with such a force of 10,000 men at the least, the 1st and 2d objects might be, with great advantage, combined, that is to say, that the attempt to secure the 2nd object by a *brisk attack* upon Tarragona with the troops specified, would necessarily induce Marshal Suchet to weaken his force in Valencia; and enable the Spanish Generals to take possession of a great part, if not the whole, of the open country in that Kingdom; which would, therefore, at the same time, accomplish the first object.

The 7th article of the memorandum proceeds to state, that the second object, namely, the possession of Tarragona, will be a question of *time and means*; and that if Suchet, notwithstanding the junction of the troops of the first army, with those under Sir John Murray, should be so strong in Catalonia, as to oblige the General to raise the siege, and to embark without accomplishing that second object, the first would at least have been gained without difficulty; and the return of Sir John Murray's corps into the Kingdom of Valencia will secure it. That if, on the other hand, Sir John Murray should succeed in taking Tarragona, the first and second objects would have been secured, and a foundation would have been laid for the attainment of the third object.

In the 15th Section again General Murray is directed, in case of raising the siege, or at all events, on his returning to the Kingdom of Valencia, to land as far north as may be in his power, in order to join the right of the Spanish armies there *immediately*.

Let us now then pause for one moment, and, in the first place, consider the plain import of these clear and specific constructions, both in letter and spirit.

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The result appears to be this, that a *brisk* and sudden attack was to be made on Tarragona, the effect of which was naturally expected to be, that Marshal Suchet, in order to afford the requisite assistance, would be obliged so to weaken his army on the Xucar, as to leave the open country or Valencia in a great measure exposed to the Spanish armies remaining before it; and that the latter would thus be enabled, as directed, to obtain possession of that part of the country, which it was otherwise out of their power, and beyond their means to occupy. That if Tarragona, by reason of this *brisk* and vigorous attack, should fall, the second object was also attained, and the further views of the Commander of the Forces, as set forth in the third object, would be very considerably advanced; but, on the other hand, should circumstances oblige General Murray to raise the siege and embark there, the instructions clearly point out that he is to return, and to return *immediately*, to Valencia, in order to assist the Spaniards in taking advantage of the absence of a large portion of the French army; (as expected, and as in fact was the case) or at least to maintain and confirm whatever advantage the Spaniards might alone, during his absence, have acquired; the whole spirit, force, and context, of the memoranda, the objects and views in question, the place where Sir John Murray was directed to land, the immediate junction with the right of the Spanish armies, every circumstance points out an immediate return in case of failure at Tarragona; as otherwise, it is obvious that the French troops would probably be enabled to retrace their steps, and contend in their former formidable position, before the return of the naval expedition; and then the success, even of the first object, however it might have been advanced, would be greatly endangered, if not entirely defeated.

The instructions then proceed to the other alternative or supposition, namely, that if it should be found impracticable to transport a sufficient force to carry the naval expedition into execution, and go at some length into the details of the operations which were, in that case, to be substituted on the flank and to the rear of the French right; as, however, in point of fact, a greater number of men than were deemed sufficient actually embarked; and the naval expedition accordingly took effect, it is unnecessary to dwell upon this part of the memorandum, as having by the event, as far as the purposes of this enquiry are concerned, become of no importance; the remainder of the instructions

again proceed, upon a supposition that the enemy should, by the prior operations, be compelled to cross the Ebro, and go into details in consequence, which the result has also rendered quite inapplicable to the present argument. To press this part of the case the more effectually upon the minds of the court, I now propose to read at length the memorandum alluded to, as well as the letter from the Duke of Wellington to Sir John Murray, in which it was inclosed; conceiving the latter also to be material towards the thorough illustration of the views of the Commander of the Forces, and necessary towards the complete investigation in which we are now employed, I propose, as I proceed, to prove these papers, to save the trouble of putting them in afterwards. General Murray, you have received notice to produce that letter.

Lieut.-Gen. Sir John Murray. I have. I admit the letter.

Judge Advocate. This is from Lord Wellington's own notes, kept by him. General Murray of course has a copy, he will have the goodness to follow me in the reading it, and see whether it is correct. I shall first read the letter of the Duke of Wellington, addressed to Sir John Murray, and then the memorandum enclosed.

The Letter and the Memorandum enclosed were read as follow :

Freneda, April 16th, 1813.

MY DEAR GENERAL,

I have received your letters of April 1st, and I now transmit a memorandum, on the operations, which I wish should be carried on, on the Eastern Coast of the Peninsula. Translated copies of which are gone to the Duque del Parque, General Elio, and General Copons.

In forming a plan of operations for troops in the Peninsula, it is necessary always to bear in mind their inefficiency, notwithstanding their good inclinations, their total want of every thing which could keep them together as armies, and of the necessary equipments of cannon, &c. and their repeated failures in the accomplishment, even of the most trifling objects, notwithstanding the personal bravery of the individuals composing the armies. If I had had to form a plan for the operations of half the numbers of real soldiers, well equipped and prepared for the field, it would have been one of a very different description, but such a one would not suit, and could not be executed by the instruments with which you have to work.

I beg, therefore, that you will set to work as soon as you

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may think proper, as proposed in the inclosed Memorandum. I have nothing to say to the equipments or establishments of your troops, or to any part thereof relating to them, excepting their operations, and the occasion and period of quitting the Peninsula, if there should be occasion. But, if you will send me a regular report of the mules and horses you have purchased, stating the prices, and for what purpose, I will send you the regular authority for the purchase.

I still object, however, to your feeding General Roche's or General Whittingham's, or any other Spanish troops in Spain, as occasioning a useless expence to such an amount as that Great Britain cannot bear it, and as eventually likely to break down your own departments. I am likewise certain, that if those officers take pains, your assistance, however loudly they may call for it, is not required. As long as I have served in Spain, I have never done such a thing nor ever will.

Ever your's faithfully,
WELLINGTON.

Of all your wants, that of artillerymen appears most extraordinary. Besides the artillerymen who came with the corps from Sicily, who as the corps came to carry on a siege, I conclude, cannot be inconsiderable in numbers, you have two companies of British and two of Portuguese artillery belonging to this army; I believe the same men, in the same numbers, who took Badajoz for us last Spring.

It would be very desirable now, however, that the communication is quite secure, if you could send me a regular return of your force.

I can't let you have the artillerymen at Carthagená, as I have nothing else to take care of our stores, &c. there, but if four companies, besides those from Sicily, are not enough, I will try to send more from this army.

Memorandum on the Operations to be carried on, on the Eastern coast of the Peninsula.

April 14, 1813.

1. It is obvious that these operations cannot be commenced with advantage till the Allied British and Portuguese army take the field in Castille, which is intended in the first days of the month of May.

2. The troops applicable to these operations, are the Allied British and Sicilian corps; and the Spanish divisions under Major General Whittingham, and Major

General Roche, under the command of Sir John Murray, that part of the 2d army under General Elio, composed of regular troops, and the regular troops of the 3d army, under the command of the Duque del Parque.

3. The objects for the operations of the troops on the eastern coast of Spain, are, first, to obtain possession of the open part of the Kingdom of Valencia; secondly, to obtain an establishment on the sea coast, north of the Ebro, so as to open a communication with the army of Catalonia; and, eventually, thirdly, to oblige the enemy to retire from the Lower Ebro.

4. Although these objects are noticed in this order, circumstances may render expedient a departure from it; and that mentioned in the 3d instance should precede that mentioned in the 2d.

5. If Sir John Murray possesses the means of embarking ten thousand infantry and artillery or more, the first and second objects may be combined with great advantage. That is to say, that the attempt to secure the second object by a brisk attack upon Tarragona, with all the British and Sicilian corps, and such part of the divisions of General Whittingham, or General Roche, as can be transported to Tarragona, will necessarily induce Suchet to weaken his force so considerably in Valencia, as to enable General Elio and the Duque del Parque to take possession of a great part, if not of all the open country in that Kingdom.

6. The first object will thus be attained.

7. The second will be a question of time and means. If Suchet, notwithstanding the junction of the troops of the 1st army, with those under Sir John Murray, should be so strong in Catalonia, as to oblige that General to raise the siege, and to embark without accomplishing his object, the first object will at least have been gained without difficulty; and the return of Sir John Murray's corps into the Kingdom of Valencia, will secure it.

8. If Sir John Murray should succeed in taking Tarragona, the 1st and 2d objects will have been secured, and a foundation laid for the attainment of the 3d object.

9. Orders have been sent for the Duque del Parque to commence his movement from his position at Jaen, and to proceed to put himself in communication with the 2d army, either by posting himself at Almanza or at Yecla.

10. As soon as the corps under the Duque del Parque arrives in communication with General Elio, the Allied British and Sicilian corps, and General Whittingham's

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division, should embark to the number of at least 10,000 men, or more if possible, and proceed immediately to the attack of Tarragona, in which they should be aided by the 1st army.

11. The troops remaining in the Kingdom of Valencia, that is to say, those under the Duque del Parque and General Elio, and those of General Whittingham and General Roche's divisions, and of the Allied British and Sicilian corps, which should not embark, should continue on the defensive, and retire even upon the lines of Alicant if it should be necessary.

12. But as soon as it is found that Suchet begins to weaken his force in the Kingdom of Valencia, they are to follow him up, and to take possession of as large a part of that Kingdom as it may be in their power.

13. It must be understood, however, by the General Officers at the head of these troops, that the success of all our endeavours in the ensuing campaign, will depend upon none of the corps being beaten of which the operating armies will be composed; and that they will be in sufficient numbers to turn the enemy, rather than attack him in a strong position; and that I will forgive any thing, excepting that one of the corps should be beaten or dispersed.

14. General Sir John Murray will take with him to the siege of Tarragona such of the Allied British and Sicilian cavalry, as he may have horse transports to convey; the remainder, with the cavalry belonging to General Whittingham's division, will remain with the troops under General Elio, and the Duque del Parque.

15. If General Sir J. Murray should be obliged to raise the siege of Tarragona, and embark, or at all events, when he returns to the Kingdom of Valencia, he is to land as far to the North as may be in his power, in order to join immediately on the right of the troops under General Elio, and the Duque del Parque; and the mules and other equipments belonging to the Allied British and Sicilian corps, which must necessarily be left behind at Alicant, are to join that corps at the place of disembarkation.

16. If Tarragona should be taken, it must be garrisoned by a part of the 1st army under General Copons.

17. In case Sir John Murray should not have the means of embarking 10,000 infantry, at least, the corps of troops to undertake a serious operation on the sea coast, in rear of the enemy's left, will not be sufficient; and the plan must be altered, and the following measures must be adopted to obtain a sufficient force in rear of his right.

18. 1. The regiments as stated in the margin,* must be detached from the 2nd and 3rd armies, and must be embarked. These, with about the same number recently ordered from Galicia, will augment the army of Catalonia sufficiently to enable them, according to the opinion of General Copons, to take the field against the enemy's troops, now in Catalonia, and to force them to remain in their garrisons.

19. As soon as he is joined by these reinforcements, General Copons should make himself master of the open country, particularly between Tarragona and Tortosa, and that place and Lerida.

20. 2dly. The 3rd army under the Duque del Parque, should be employed to turn the right of the enemy's position in Valencia; while the Allied troops under Sir John Murray and General Elio will attack them in front. I imagine that it will be necessary for the Duque del Parque to proceed, in this case, as far as Utiel and Requena, before he will be able to make any impression on the position of the Xucar.

21. In proportion as the Allied troops gain ground this operation will be repeated; the 3rd army continuing to move upon the enemy's right, till it will come in communication with the first army on the left of the Ebro. With this object in view, General Copons, and the Duque del Parque, should keep in constant communication.

22. When the enemy shall have been forced across the Ebro,† either by the maritime operations in rear of his left, or by those just described on his right, it will rest with General Sir John Murray to determine, in the first instance, on the line to be pursued, in a view to the local situation of affairs, in respect to the ulterior objects of the operations, whether to establish the Spanish authority in the kingdom of Valencia, by obtaining possession of Murviedro, Peniscola, and any other fortified posts there may be within that Kingdom, or to attack Tortosa, or Tarragona, supposing that that place should not have fallen by the maritime operations first proposed.

23. In my opinion the decision on this point, as far as it depends on the state of affairs on the Eastern coast, will

* Voluntarios de Jaen, of the first division of the second army. Regimiento de Alicante, of General Roche's division.
2nd. Regt. de Burgos, of General Whittingham's division.

† It would be very desirable that, if practicable, General Copons should get possession of Requena.

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depend much upon the practicability and facility of communicating with the shipping on the coast, without having possession of the maritime posts in Valencia.

24. If that should be practicable, it would be most desirable to attain the second and third objects of the operations, without waiting to obtain possession of the posts within the Kingdom of Valencia, respecting which it is hoped there would be no doubt, when the operations of the first army would be connected with those of the second and third, and of the troops under Sir John Murray.

25. The divisions composed of irregular troops attached to the second army, and commanded by Generals Duran and Villa Campa, should direct their attention to prevent all communication between the enemy's main army under the King in person, and that under Suchet.

26. The operations of these divisions should be carried on on the left of, and in communication with the Duque del Parque, and in proportion as the third army should move towards the Ebro, the operations of these divisions should be pushed forwards likewise.

27. The division of Don Juan Martin must be kept in reserve nearly in its present situation, and directions shall be sent to Don Juan Martin.

28. General Sir John Murray having under his command the largest, and most efficient body of troops, upon whose movements those of the others will depend essentially, will direct the operations of all the corps of troops referred to in this memorandum, when their operations will be connected immediately with those of the corps of troops under his command.

29. If General Sir John Murray's Allied British and Sicilian corps, and the whole or part of General Whittingham's division should embark, General the Duque del Parque will direct the operations ordered in this memorandum, to be carried on in the Kingdom of Valencia; but in either case, the General Officers commanding the first, second, and third armies, and General Whittingham, must command each their separate corps.

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Judge Advocate. Having thus, I hope, rendered the line of conduct which Sir John Murray was, by his instructions, bound to pursue, sufficiently clear, I shall now proceed to examine how far he has in fact followed the course prescribed, or, in other words, how far the Charges stating that he has not done so, are well-founded.

I must here premise that, in the view of the Case, which we are now taking on the two first Charges *merely*, it is quite immaterial whether Sir John Murray did his utmost or not to take the town of Tarragona, during the time in which the prosecution of the siege was continued, whether it was practicable or not to have obtained possession of it by a more *brisk* attack, or by a coup de main, whether it was in his power to have continued the siege still longer or not, or lastly, whether he ought or ought not to have given battle to either of the French armies opposed to him, or to both. All these questions are passed by in the enquiry upon these two first Charges; and it will be for this Honourable Court hereafter, when they shall have heard the evidence to be adduced by Admiral Hallowell, to say whether they have any, and what application to the last Charge. We may for the present, however, consider that all was done in the time as to the capture of Tarragona, that was reasonable to be expected—that no battle ought to have been fought, that it was absolutely necessary, under the existing circumstances, to raise the siege, and embark the army; and the only questions on this first subject of enquiry, will be as to the continuance of the siege in the manner in which it was continued for so long a period, without any adequate object, and without, according to the General's own ideas, the least prospect of success, as to the peculiar circumstances attending this mode of continuing the siege, and generally, as to the conduct of General Murray previous to, and subsequent to, the embarkation, as connected with the clear and positive instructions which he had received.

To enable the Court to come to this decision, I shall now proceed to read, and to examine carefully, the several letters and statements of General Murray, which will be submitted in evidence, as it is from this source, as I have already stated, from General Murray's own accounts of what he knew, and of what he had reason to believe, and in fact did believe, together with the dates and periods of that knowledge, and of his own conduct in consequence, that I propose principally, if not entirely, to draw all the information upon which the Court, as far as the two first Charges are concerned, will have to decide.

The first letter is dated, Camp before Tarragona, June 7th, 1813. Do you wish me to prove that, General Murray?

Lieut.-Gen. Sir John Murray. Certainly not.

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Judge Advocate. Just have the goodness to look at your copy, and point out any variance, if there should be any, it begins "my dear Lord Wellington."

Lieut.-Gen. Sir John Murray. It is marked "private."

Judge Advocate. It is, but it is entirely on public business.

The Letter was read as follows :

(*Private.*)

*Camp before Tarragona,
June 7th, 1813.*

MY DEAR LORD WELLINGTON,

I am much afraid we have undertaken more than we are able to perform, but to execute your lordship's orders, I will persevere as long as prudence will permit. I have as yet no certain information of Suchet's movements, nor of De Caen to the eastward, but there are reports of both, and if they prove true, in five or six days I may be attacked by a force infinitely superior, without the hopes or chance of a retreat, in case of misfortune. I calculate that Suchet can bring into the field 24 or 25,000 men without difficulty; and my force, supposing the Spaniards really have what they say they have, will not exceed of all sorts here 19,000, of which I must leave 4000 at least to cover our guns, and mask the garrison. To secure our left flank, and prevent Suchet's direct march upon Tarragona, I have attacked the Coll de Ballaguer, and I expect it to fall to-morrow or next day. With respect to the first army, I can say nothing further at present, than that they seem very willing, but very weak. Your lordship has directed that they should garrison Tarragona in case it should fall, this will diminish their numbers very considerably, and make them unfit for any thing. I venture, therefore, to propose to your lordship, that 3000 men should be sent for that purpose, and if you could send some recruits for their regiments, I think it would be of service, as the Catalans desert so much. Colonel Cabanes gives me every assistance in his power, but I perceive he has too little assistance in staff officers, three or four more would be well employed, and are necessary—money and clothes are both much required, at least they tell me so. The Admiral proposes sending a ship to Alicant to-day, I believe. I have just had time to write these few lines.

I have the honour to be,

My dear Lord Wellington,

Your's, most truly,

J. MURRAY.

Lieut.-Gen. Sir John Murray. It is quite correct. It was not with a view to object to the production of the letter that I stated it was marked "private" by any means.

Judge Advocate. No, certainly, but that ought to be mentioned where it appears to point out the distinction between that and the public dispatch. By this it appears, that even at this early period, Sir John Murray was fearful that he had undertaken more than he could perform; and though he does not seem to be quite satisfied of the accuracy of the reports which he had heard, still he seems to believe them generally. He already mentions, in consequence, the probable prospect of attack, and that in the course of five or six days, by very superior numbers. He calculates Marshal Suchet's possible force in the field, at 24,000 or 25,000 men, making his own amount to only about 19,000, and that not only on including the whole of the Spaniards, but estimating their numbers according to their own calculations, which he considered as exaggerated. He further states, that 4000 of his men would be necessarily employed in covering the guns and masking the garrison, so that even on the 7th, taking the General's own views of the state of affairs, he must have been of opinion, that provided he continued landing the guns and stores, and persevering in the siege, in which case he also seems to have considered an engagement would be inevitable, he would be unable to bring into the field above 15,000 men of every description, against an enemy, whom his own information led him to believe, would, or at least might, amount to 24,000 men, all experienced troops. It is to be remarked also, that before this there had been ample time to reconnoitre the works of Tarragona, and to ascertain their strength; upon which subject it will hereafter be seen Sir John Murray had also formed a pretty decided opinion. He must, therefore, at the time when this letter was written—at a time when, as I conceive, a considerable part of the heavy artillery and stores were still either on board in safety, or might readily have been so placed—at this time he must have foreseen and (to judge from what he states) I think he must, in his own mind, have been convinced of the probable necessity of raising the siege, and the certainty almost, in consequence of not being able to accomplish the second object of his instructions. The same information must also, if true, have been equally satisfactory to his mind, that by the movement of a considerable body of the French from their

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position in Valencia, the first object must have been, in a considerable degree, accomplished; I must submit, therefore, that even at this early period his plans should have been formed, and calculated accordingly, with the view of taking advantage of this partial success as to the first object, by preparing at least, and providing for a speedy return to the coast of Valencia, in order thereby to assist in obtaining, or in securing the benefits expected to be derived from the great diminution of the force of the enemy in that quarter.

The second letter I shall produce, is dated Camp before Tarragona, June 9th, 1813. In point of form, General Murray, you admit that letter.

Lieut.-Gen. Sir John Murray. Yes, certainly.

It was read as follows :

*Camp before Tarragona,
June 9th, 1813.*

MY LORD,

In my letter of May 28th, I had the honour to inform your Lordship, that in obedience to your Lordship's instructions, the British army was then embarking. On the 31st we sailed, and anchored to the eastward of Salou point, on the evening of the 2d instant. On the third the army disembarked, and invested Tarragona.

Previous to coming to an anchor, I detached Lieutenant Colonel Prevost's brigade, under convoy of the Brune, to attack the Fort of St. Philippe, and in the night General Copons, at my request, detached a brigade of infantry to co-operate. The brigade of Colonel Prevost consists of the 2d, 67th, and the battalion of Roll Dillon, and to these was subsequently joined the Brigade of Spanish troops commanded by Colonel Lauder. The fort has been taken, and I have the honour to enclose a copy of Lieut. Colonel Prevost's report to me, with the returns which he has sent.

This capture, in the present situation of our affairs, is of great importance, as it blocks up the nearest and most accessible road from Tortosa to Tarragona.

Admiral Hallowell, with that alacrity and zeal for which he is so much distinguished, sent Captain Adam, in the *Invincible*, to conduct the naval part of the expedition, and added the *Thames*, Captain Peyton; *Volcano*, Captain Carroll; *Strombolo*, Captain Stoddart; and *Brune*, Captain Badcock. Lieutenant Colonel Prevost speaks highly of

the exertions of these officers and their men; and I know how valuable and important their services were found to be. The troops of both nations bore their fatigue, and performed their duty, with the greatest alacrity and spirit, and deserve every commendation. The Lieutenant Colonel has, in a former dispatch, particularly noticed the gallantry and good conduct of Ensign Nelson of the 67th, and Ensign Mc'Dermott of Rolle Dillon's battalion.

I have the honour to be, My Lord,
Your Lordship's most obedient and humble servant,
J. MURRAY, Lieut.-Gen.

*His Excellency,
Marquis of Wellington.*

I have omitted to say, that Captain Carroll's services were particularly meritorious, and Lieutenant Corbyne of the Invincible, who commanded a battery manned by seamen, kept up a well directed and heavy fire. The importance of this acquisition, and the rapidity with which the fort has been taken, make it quite unnecessary for me to say, how much I approve the conduct of Lieutenant Colonel Prevost, and of Captain Adam.

J. MURRAY.

Judge Advocate. The greater part of this letter, is not perhaps immediately applicable to the view of the Case which we are now taking. It will serve, however, to explain the then state of affairs, and position of the army; and it gives some dates of which the Court may wish to be possessed.

By the reference also to the letter enclosed of Lieutenant-Colonel Prevost, and which is therefore made evidence, it appears that he had received at that time information of the rapid approach of Marshal Suchet, and that he had acted on that information, and communicated it to General Murray.

The extract from the letter of Colonel Prevost, dated June 7th, 1813, which is the only part which appears material, and which I wish to have read, unless the Court shall desire to see the whole, is as follows: "As Marshal Suchet's approach was hourly expected, Captain Adam and myself, judged it right to grant them the terms required, as we should by that means get the fort in a good state of defence."

Lieut.-Gen. Sir John Murray. Will you have the goodness to mention the date of Colonel Prevost's letter?

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Judge-Advocate. It is dated the 7th of June. This is the copy actually enclosed by you.

Lieut.-Gen. Sir John Murray. I only wished to have the date.

Judge Advocate. The next letter is dated, His Majesty's Ship *Malta*, June 14th, 1813, written by Sir John Murray to the Duke of Wellington. Sir John Murray will have the goodness to look at that letter.

Lieut. Gen. Sir John Murray. I admit that to be my letter.

It was read as follows.

*His Majesty's Ship Malta,
June, 14th 1813.*

MY LORD,

Admiral Hallowell has just decided on sending a ship to Alicant, and I have time merely to state to your Lordship, and I do so with great regret, that I have been under the necessity of raising the siege of Tarragona, and re-embarking the army under my command. In my private letter of the 7th instant, I mentioned to your Lordship the reports of the assemblage of the French forces at Barcelona, and that Marshal Suchet was likewise in march from Valencia, and stated it as my opinion, that should these reports be confirmed, the object your Lordship had in view could not be accomplished. Unfortunately these rumours proved true, and reluctantly I resolved on abandoning the siege, and embarking the army, as the only means of avoiding a general action, which must have been fought under every disadvantage. I cannot at this moment refer to dates, but it is for the present sufficient to state, that the French force at Barcelona was never rated to me at less than 8000 men, and that previous to their march, it would amount to 10,000, with 14 pieces of artillery. I have, however, no account that it ever exceeded eight, and that is the number on which my calculation was formed. This force, upon the evening of the 9th, or morning of the 10th, marched from Barcelona, and entered Villa Franca at four o'clock in the evening of the 11th, from whence it was reported to me, to march at 12 o'clock at night, for Vendrills, distant only 18 or 20 miles from Tarragona, by the great road, by which cannon can easily pass. On the 9th or 10th, the arrival of Marshal Suchet at Tortosa was made known. His real force has never been perfectly ascertained; but from the intelligence I received from Valencia, he marched from thence with 9000 men, and certainly, in the rear of that place

had the power of drawing great reinforcements to his army. To these corps must be added a body of 1000 men, which had previously arrived at Tortosa, and another corps, independent of the garrison of 2500 men, who had arrived at Lerida. These corps, which I am sure I do not exaggerate, amount to 20,500 men, with which in four or five days Marshal Suchet could attack the Allied army, if he thought proper, or avoid an action if he wished still more to reinforce his army. Your Lordship on the one hand will observe, that I could scarcely bring into the field 12,000 men, and that the army of Catalonia, as stated to me, at 8500, making 20,500 men, of which two British and two Spanish battalions were at the Coll de Ballaguer, and could not be withdrawn, and I could not have less than 2500 men to cover the artillery and stores, and to contain the garrison of Tarragona. The two corps at the least would amount to upwards of 4500 men, leaving me 16,000 men to meet the best French troops in Spain, amounting to upwards of 20,000 men. I am sure there is nobody more willing to give full credit to the gallantry of the Spanish troops than I am, but your Lordship well knows that they are unable to move, and I could not therefore depend upon the execution of any order which necessarily obliged them to make a movement, and of Troops of this description, I had about 13,000; unless, therefore, I could place them in a position which, as the French had the option of fighting when and where they pleased, it was impossible I could place any reliance upon them. My British and German troops amount only to 4500. Perhaps your Lordship may be of opinion that, under these circumstances, I ought to have risked an action, had no other unfavourable objections existed. But when your Lordship is informed that I had no possibility of retreat if unsuccessful, that there would have been no hopes of embarkation if followed, and that the army must have been unavoidably lost, I venture to hope that your Lordship will think, however much it is to be regretted, that I have adopted the only means of maintaining entire, or indeed of saving an army, on which so much depends, and I feel the greater confidence in this hope on reverting to the 13th paragraph of your Lordship's general instructions for the conduct of the Campaign. I am fully aware that there are many circumstances which may require further information, and upon all points, I shall be happy to give every explanation in my power. Your Lordship may perhaps be of opinion that the place should have been taken,

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but that as it was too strong to storm, I believe not only to have been impossible, but that we should not have taken it in 8 or 10 days. My only regret is that I continued the siege so long. Induced by the hopes of the reinforcements I expected, I continued it to the last moment, and fortunately the weather proving favorable, the troops were embarked without molestation. On this favorable circumstance, I could not depend for another day, and therefore having taken my part, I immediately put it in execution, and I regret to say, that I was in consequence obliged to leave the guns in the most advanced batteries. Had I remained another day they might have been brought off, but this risk I could not run when the existence of the army was at stake, not only from unfavourable weather, but from the appearance of an enemy, in whose presence I could not have embarked perhaps at all, or certainly not without suffering a great loss, and without the possibility of deriving any advantage.

I have only further at this time to add, should blame be attached on the failure of the expedition, no share of it can fall on Admiral Hallowell, who conducted the naval branch of it. From that distinguished officer I have met with every assistance and co-operation in his power, and I think it only justice to him, to state that it was his opinion that the cannon in the batteries might have been saved by remaining till the night, and that they could then have been brought off. This, however, was a risk I did not wish to run for so trifling an object, and preferred losing them to the chance of the embarkation being opposed, and of an eventual much more serious loss.

J. MURRAY.

Lieut. General.

Judge Advocate. We have now to observe (the Court recollecting that for the present I take the whole of these statements as correct,) that the rumor alluded to in the letter of the 7th, (and which is here referred to,) namely, of the approach of Marshal Suchet from Valencia, and also of the approach or assemblage at least of another force from Barcelona, proved to have been well founded, as had been supposed. We also collect, that the Barcelona force marched about the 9th of June, that it entered Villa Franca at four in the evening of the 11th, and *was reported* to have marched at 12 at night for Vendrills, distant only 18 or 20 miles from Tarragona by the great road, and somewhat more by another road practicable for cannon. These dates

I merely point out, as they may probably be material in the consideration of the third charge. As connected with the two first, we learn that on the 9th or 10th, Sir John Murray was acquainted with the arrival of Marshal Suchet at Valencia, and that he had marched afterwards, as reported, with 9000 men, and further, that knowledge had been obtained, of the previous arrival of a force at Tortosa, and another at Lerida. We have also in this letter a comparative statement of the relative strength of the Allies, and of the enemy; and, that it was the opinion of General Murray, that Marshal Suchet could bring above 20,000 men of the best French troops into the field, and that he was in a condition to have attacked the Allies with that force in the course of four or five days; whilst from the arrangements which must necessarily have been made, the force of the Allies in the field, would have amounted only to about 16,000 British, Germans, Sicilians, and Spaniards, all included; and that, of that number, nearly 13,000 were considered as of a description only to be relied upon when in position, and that to fight in position was not at the option of the Allies, but of the enemy.

The force, which was considered as to be relied upon in all events, and under all circumstances, is reduced to little more than 4,500 British and Germans; and we collect moreover, that in case of defeat, retreat was considered by the General as nearly impracticable, and that, at least, in his consideration, the dangers and difficulties of the re-embarkation had become sufficiently apparent. On another point also we are put into possession of the opinion of the General, namely, that it would have been quite impossible to have taken Tarragona by storm, or by a coup de main; and the not having made any such attempt for so many days, when the necessity of so doing, if even with much risk practicable, was so urgent, proves most strongly, that this must always have been the opinion formed by the General, and which we shall hereafter find him stating to have been very fully confirmed by that of the principal engineer with the army, Major Thackeray. Upon this head our information is also carried still further, and we learn, not only that a coup de main was considered as impracticable, but that even 8 or 10 days would have been insufficient, in Sir John Murray's judgment, to have put him into possession of the fortress. Now, had the two Charges which we have under our present consideration been for the not having risked an action, when it would have been

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proper to have done so, the Court would probably consider the facts detailed, if made out in evidence, at least, as most material, if not as amounting to a complete and satisfactory answer to such an accusation. As to our present enquiry, I must first, however, observe, that General Murray must necessarily have been possessed of nearly the whole of this information some days previous to that on which the re-embarkation took place; the whole of course of what concerned *his own army*, and the state of the works of Tarragona, and that as to the remainder concerning the *enemy*, the reports appear to have been, as stated by the General, in the main points consistent; and, with the exception of some slight variations as to numbers, nearly uniform, that they were considered credible and probable, that they appear to have agreed with the better and more certain knowledge possessed by General Murray; and what is the most material for our consideration now, that he himself seems to have given them full credit both at the time and since. How, then, does this explain, or justify, the conduct complained of in the two first charges? The town was not to be taken for 8 or 10 days at the least; and, according to what Colonel Thackeray, as we shall see hereafter, had stated to General Murray, in not less than 14 days. The numbers of the enemy, and the description of his troops, were such, that, according to the opinion formed by the General, the enemy was not to be resisted in the field with any fair prospect of success, by an army composed as the Allied army then was; the enemy was sufficiently near, and, from other circumstances, had the option of attacking him in the course of 4 or 5 days. Why, then, persist in the siege, and continue to land stores, provisions, heavy guns, and every thing requisite for the capture of the town? Why expose objects of such main importance in the ensuing campaign, when the necessary and inevitable conclusion to be drawn from the premises, *if all correct*, is, that the General must have been at the time aware, and convinced, that the whole must be of no avail as to the object in view? I must submit, that hitherto, at least, no satisfactory reasons are given for this conduct; but that, on the contrary, the 2d object having, in the opinion and judgment of the General, failed, his whole thoughts, plans, and exertions, should have been turned to the pursuit and security of the 1st object, the success of which, though always, until his return to Valencia, precarious, it was still in his power to promote and, perhaps, confirm.

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Of this error, which as I am now submitting, was committed in opposition to the instructions given to the General, he seems both in this letter, and in another which I shall hereafter read, to have been himself conscious, and the following words escape him in consequence, "my only regret is, that I continued the siege so long." Before I quit this letter, I must just point out two other passages, as they may probably be considered of importance, and relied upon by Admiral Hallowell in support of the 3d charge. I allude, first, to that in which General Murray states, that in *another day* the guns might have been got off; and, 2dly, that, which relieves the Admiral from all blame as to their loss, and at the same time admits, that in his (the Admiral's) opinion, by waiting until the night, they might, as he then stated to the General, have been preserved; but that for the reasons stated by the latter in his letter, (the validity of which will be one of the points for the determination of the Court on the 3d charge) he did not conceive himself to be justified in admitting of such a delay.

The next letter is of the same date as the last, and is read merely to put the Court in possession, as much as possible, of every thing connected with the subject, and to exhibit the changing views and opinions of the General at different periods. Sir John Murray will have the goodness to look at that.

General Sir Geo. Beckwith: Is that marked 'private'?

Lieut. Gen. Sir J. Murray: That was a private letter sent with the public letter the same day.

Gen. Sir Geo. Beckwith: By the same conveyance?

Lieut. Gen. Sir J. Murray: Yes.

It was read as follows:

H. M. Ship Malta, June 14, 1813.

MY DEAR LORD WELLINGTON,
I lament the misfortune which has occurred, but I am sure nothing more could be done. The loss of the guns is to be regretted, but I could not think of risking the whole army, which at last, of which we had several, must have ensured. That the enemy did not push on as fast as he might have done, is true, I believe, but on that I could not reckon; and if he had, on an open beach, without cover or protection, I must have gone off. I did not think a few guns worth the risk. I own I was once tempted to consent to the experiment, but reflection, and the advance of the enemy, obliged me to change my mind; I was

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placed in a most difficult situation, and I have chosen the safest.

I have the honor to be,
My dear Lord Wellington,
Your's most sincerely,
J. MURRAY.

Judge Advocate. The next letter which I propose to read, is dated Alicant, June 23, 1813. It is from General Murray to Earl Bathurst, but as Sir Henry Bunbury has only forwarded to me *yesterday*, a copy certified by himself, and not the original for which I applied, I feel it right to state this to the Court, not having now time to procure the original; and conceiving that this copy is, as it stands, barely evidence, unless General Murray consents to its being read, I shall withdraw it altogether.

Lieut.-Gen. Sir J. Murray. I have not the least objection in the world, I dare say it is a correct copy.

President. If you feel any objection, General Murray, you will state it, and the Court will give every attention to it.

Lieut.-Gen. Sir J. Murray. I have not the slightest objection in the world to its being read.

It was read as follows :

Alicant, June 23, 1813.

MY LORD,—Although I am convinced the Marquis of Wellington will forward to your Lordship a copy of the accompanying statement, my anxiety fairly and fully to lay before his Royal Highness the Prince Regent, the causes which led to the failure of the attempt on Tarragona, and the motives for my conduct, induce me to profit of the earliest opportunity of transmitting the statement myself. I do therefore earnestly intreat your Lordship, to submit it to his Royal Highness's inspection, as soon as a favourable opportunity shall occur, and I do so in the full confidence, his Royal Highness will perceive that my conduct was the consequence of events which I could not control. I beg only the permission to add, that I never entertained the most distant hope of success if the place did not fall in six days after the army appeared before it, and I think myself warranted in stating, that Lord Wellington himself had no sanguine expectations that Tarragona would fall, should (as proved the case) Marshal Suchet march to its relief with the force at his disposal.

J. MURRAY, Lieut.-Gen.

Judge Advocate. The only purpose I had in view in

reading this letter, was to draw the attention of the court to the paragraph in which General Murray states, that "he never entertained the most distant hope of success, if *the place did not fall in six days* after the army appeared before it." With this impression on his mind, coupled with the uniform conviction as appears in all his statements, that nothing could be done, and that Tarragona could not fall in six, or even in ten days, from the time when the army appeared before it, how, as I have stated, (and as this letter obliges me to repeat,) can the General justify the subsequent exposure of his guns and stores without any end or object?

The next letter to be read, is dated Alicant, June 23d, 1813. It is a letter from General Murray to the Duke of Wellington. It is marked "Duplicate," but it is signed by General Murray as an original.

Lieut.-General Sir John Murray. It is signed by me.
It was read as follows :

Alicant, June 23d, 1813.

MY LORD,—On the 14th instant, when much occupied, I had the honour to inform your Lordship, that I had been obliged to raise the siege of Tarragona, that I had left the cannon in the most advanced batteries, and that I had embarked the army.

Deeply as I regret the necessity of these measures, I am convinced they were inevitable; that from the appearance of affairs at the time I could not act otherwise, without risking the existence of the army; and that, compared with the misfortune which must have followed a longer perseverance in the siege, the sacrifice I made was trifling in the extreme. The subsequent statement will, I should hope, fully substantiate what I have here asserted; and if your Lordship is satisfied with it, I shall bear with patience the unmerited blame which is often cast on those, who conduct an unsuccessful operation, without the circumstances being considered which led to failure; or, in this instance, the consequences which must have ensued had this army been captured, or rendered ineffective for the campaign.

As the justification of the measure adopted, must depend on the statement which I have now the honour of addressing to your Lordship, I hope your Excellency will excuse me if it runs to some length; and if it touches upon points with which your Lordship is already acquainted. I am anxious to bring the whole subject under your Lordship's view at once, and to render it clear and intelligible to his Majesty's

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Ministers, to whom I conclude your Lordship will submit it. Your Lordship's orders directed, that I should proceed to the siege of Tarragona, provided a body of 10,000 infantry or more, with a proportion of cavalry and artillery could be embarked; and that other measures should be adopted if that number could not be provided for on board the transports. Means were found adequate for embarking about 13,000 infantry, and with this force I sailed from Alicant on the 31st of May. On the evening of the 2d June, the fleet anchored to the eastward of the point of Salou, but the surf ran so high, that in Admiral Hallowell's opinion, they could not land.

The disembarkation took place on the 3d, and the town was immediately invested.

In this operation your Lordship, as appears from the orders above alluded to, had two objects in view. The capture of Tarragona itself, and a diversion in favour of the 2d and 3d Spanish armies; in the latter it has been perfectly successful, and it was scarcely possible that it should be so in both. This your Lordship evidently foresaw, well-knowing the force which the enemy, in a certain time, could collect in Catalonia; and in the 7th paragraph of your orders your Lordship observed, that the second object (the capture of Tarragona) will be a question of time and means, and the advantages which will result from the return of this army, into the kingdom of Valencia, are stated, should Suchet, notwithstanding the junction of the 1st army, oblige me to raise the siege, and to embark without accomplishing the object in view. As the 13th paragraph of the general instructions so clearly points out your Lordship's Views, as to the mode in which the general officers should conduct the campaign, and the degree of risk they should run, I take the liberty of quoting a part of it.

"It must be understood, however, by general officers at the head of these troops, that the success of all our endeavours in the ensuing campaign, will depend upon none of the corps being beaten of which the operating armies will be composed;" and concludes thus, "I will forgive any thing except that one of the corps should be beaten or dispersed." In reference, then, my Lord, to the 7th paragraph, I beg leave to state, that I had neither time nor means; time, because Suchet collected an army in my immediate neighbourhood before the least impression was made, or could have been made, on the body of the place; nor means, because I could not form a covering army to protect the

besieging one from attack. When I found this to be the case, I conceived that a compliance with your Lordship's instructions required that I should abandon the enterprise; and I trust that I shall be able to shew, that no time was to be lost when I decided upon the measure, unless I chose, in opposition to your Lordship's intention, to risk a general action with a superior force, which, if defeated, could with safety retire beyond my reach, and when, should the battle prove unfortunate, the destruction of the Allied army must have been the inevitable consequence.

From the most accurate statements which I have had it in my power to procure, Marshal Suchet's force, in the Kingdom of Valencia, amounts to 23 or 24,000, and the army of Catalonia, including the garrison, is stated to be 22,900, making, it may be called, an army of 46,000 men. I do not, however, mean to assert, that the enemy could bring all this force to act against the Allied army in Catalonia; but allowing that he left in Valencia 11,000 men, (and it appears he has not left so many) and 10,000 in the garrisons of Catalonia, a disposable army of 24,000 men, at least, was still at his command. To oppose this army, in as far as the late expedition was concerned, I had about 13,000 men, and from General Copons statement, his disposable force amounted to 5,500 men, and these latter without pay, without discipline, without a single piece of cannon, without the means of subsisting, and totally incapable of acting in the field, with other troops of all descriptions; therefore it appears the Allied army consisted of 21,500, of which about 4,500 were British and Germans, 13 or 1400 Sicilians, 600 Calabrees, and the remainder were Spaniards. In point of cavalry a very great superiority existed on the part of the enemy. Such was the strength and composition of an army, with which I was to meet the enemy's army, composed, as it is, of the best troops of France, and long habituated to act together. But the difference in the situation of the armies is no less striking. The French General possessed, in every direction, fortresses around me to cover his army, if defeated, to furnish his supplies, or to retire to, if he wished to avoid an action, for the purpose of bringing up more troops, or to await the movements of a detached column. The Allied army, on the contrary, was in the open field, without one serviceable point d'appui, and without a place to halt even a day, however necessary. But in case of retreat, where could it retire? To its ships. There, indeed, the army would have been safe, if it ever reached them; but your Lordship knew too well

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what a three days' embarkation must cost an army, (and it would have required three days, at least, to complete it) to wish, that I should have exposed it to such an operation in an open bay, on a beach, where, as we had found by experience, it, on several occasions during the eight days we were on shore, was impossible to disembark, but in the lightest boats. Had affairs come to this extremity, we must have lost every animal belonging to the army, every piece of field artillery, and, in all probability, the greater part, if not the whole, of the covering division of infantry.

To probable misfortune of so extensive a nature I am sure your Lordship would never have wished that the army should have been exposed, I say probable, not only for the superiority of the enemy, but from the want of sufficient equipment, which it was impossible to take with us, and which we had not sufficient time to procure.—If, as I can hardly doubt, your Lordship will be of opinion, that these risks were not to be incurred, it will still rest with your Lordship to decide whether it would have been in my power to avoid them, if I once permitted a strong column of the enemy to get in contact with me, whilst another of greater strength was in fact within one day's march of me, although I believed it within two and in my rear. That I could have defeated the column approaching from Barcelona I have no doubt, had it waited an attack, but what hope could I entertain that it would do so? And whilst making the attempt, I must have left the besieging army without field artillery and without cavalry, exposed to the attack of Marshal Suchet's army, without artillery, likewise, it is true, but greatly superior in cavalry, and with a more numerous body of infantry, whilst that division of the Allied army must have left a corps to protect itself from the garrison of Tarragona, which though weak, could not have been kept in check with less than 2000 men, nothing but absolute destruction could have followed.

Having enumerated in a former part of this letter the force the enemy might employ, it remains to state what, from the best information I could procure, he actually did employ, to force me to raise the siege of Tarragona. I can assure your Lordship, that I believe my accounts to have been accurate, and certainly they are not exaggerated. The first reports which reached me of the enemy's movements was, I think, on the 7th June, when I learnt that the disposable column from Gerona was in march for Barcelona, and that every effort was making to collect 10,000 men immediately at that place, to which would be attached 14 pieces of

artillery. This was confirmed from every quarter. General Copons stated it to be the case, Colonel Manso, who commanded the advanced posts, and who had a constant communication with Barcelona, daily made the same report, and, on one occasion, stated the enemy's force to be 12,000 men, and, in short, from whatever source I derived intelligence, I found the numbers perfectly to agree; but I have no reason to believe that the column exceeded 8000 when it did march; and, from the examination of deserters since, I am satisfied that that was nearly its force.—On the 10th, this column occupied Villa Franca, and on the 11th, established itself at Villa Franca, which is about 12 hours march from Tarragona, and from whence it had the option of three carriageable roads for that place. With very inadequate disposable force every one of these roads must have been occupied, and the two corps (such is the difficulty of communication) posted where the enemy did not advance, could not have joined the third body, which would have been exposed to the whole force of the enemy. This corps of the enemy suddenly broke up, but after we were embarked, alarmed, as I have every reason to believe, by the appearance of Sir Edward Pellew's fleet in the Bay of Rosas, an event with which I was totally unacquainted. On the other hand, from Valencia to Tortosa, Marshal Suchet was advancing with the utmost rapidity.

On the 9th, I received, by express, advice that he had left that place on the 7th, with 9000 infantry, and from the corps in his rear, he had ample means to reinforce this body. I knew that 1000 men had actually arrived at Tortosa before this time, and that 2500 had reached Lerida. Late in the evening of the 11th, I received the information that Suchet had quitted Tortosa on the 10th, and it was clear, that if he chose to pass by the Mountain Roads (as he actually did) to the plain of Tarragona, that he could be before the Allied army on the 13th; the head of one of the columns appeared on the plain in the course of that day, and the British cavalry were actually engaged with it.—To advance with artillery certainly would have lengthened his march; but this he thought unnecessary, as, in fact, it was, as he would have found none to oppose him, he would have had to contend with infantry alone, of which a very small proportion would have been British, occupied in a siege, and obliged to divide its attention between a more powerful enemy on the one side, and an attack which might fairly be expected from the garrison of Tarragona, on the other.

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Such, my Lord, would infallibly have been the state of the army, had I delayed the embarkation, if the French Generals chose to push forward; and when the stake was so great, I had every reason to expect they would do so.

Upon a review of this case, I believe your Lordship will rather be of opinion, that I continued the siege too long, than that I abandoned it too soon; and I can only plead an extreme anxiety to carry your Lordship's views into execution as my excuse.—I saw the moment when, in all prudence, the cannon ought to have been embarked, and the enterprize abandoned; but that moment followed so closely the commencement of the siege, and Suchet's march, and the consequent possibility of his return, that no diversion would have been made in favour of the 2d and 3d Spanish armies. I should, besides, by too precipitate a measure of this nature, have relinquished every chance of the fortunate occurrences which sometimes happen in war, and now here was there greater reason to hope for, and to expect them, than at the siege of Tarragona, where the garrison was weak, and reported in fact to be dissatisfied.—The line of Suchet's operations, besides, was not ascertained till his actual arrival at Tortosa, a delay might have given us the place, and the movement of his columns might have been deranged.

These and other chances of success, I should have given up, if the cannon had been withdrawn from the batteries on the 8th, or perhaps the 9th; and if they remained a day longer, they were exposed to be lost. But, my Lord, calculating upon the importance of the objects your Lordship had in view, I determined to persevere in the siege to the last possible moment I could do so, without sacrificing the efficiency of the army for the field; and I determined to risk a proportion of the battering train to the loss of which I attach less importance than others seem to do.—This, my Lord, is not an opinion formed for this occasion. I approved of cannon being used to the last moment, and abandoned at the battle of Castalla, and when, at the siege of the Coll de Ballaguer there appeared to be a necessity either of withdrawing the cannon or losing them, I directed that they should be used to the last, and then spiked and left. Here, my Lord, I shall conclude; and I venture to hope, that your Lordship will excuse my having entered so much at length into the subject. I know that it is the opinion of some, that the cannon might have been saved; but I trust that your Lordship will not think that, threatened with an attack on both flanks, the attempt should have been made,

whilst it would have required three days at least, under the most favourable circumstances, to embark the army, and in the event of blowing weather, it could not have been embarked at all.

With respect to the general issue of the expedition, I can only say, that it was my opinion, and it appears to have been no less than that of your Lordship's, that both the objects in contemplation could not succeed, although one of them might be considered as ensured. Had Suchet remained in Valencia, Tarragona fell—if he marched in force to its relief, it was inevitably saved; but the Duque del Parque remained unopposed on the Xucar. I shall only add my belief, that when a siege is pushed to the last moment, and does not ultimately succeed, the loss of the battering cannon is almost inevitable; and they must be particularly endangered where the only place of retreat is a fleet, and to reach which they must depend upon the weather and inactivity of the enemy.

I have, when speaking of the force which I had to oppose the progress of the enemy, omitted to mention, that two Spanish and two British battalions were detached at the Coll de Ballaguer, and that that force could not be weakened, and was much exposed. It may be necessary to add, that in any action which I might be obliged to hazard, I must ever have had in view, in case of defeat, the retreat of the Catalonian army to the north; which, if not secured, it, with the province, was lost, and the retreat of the Allied army to the fleet. I believe it would have been impossible to connect these two objects, when opposed by so powerful an enemy.

I have the honour to be, my Lord,

Your Lordship's most obedient,

and humble Servant,

J. MURRAY, Lieut.-Gen.

Judge Advocate. The Court will observe, that this is a more detailed and formal statement of what had happened at Tarragona, written after there had been further time for consideration and recollection. The same arguments might here again be raised, and the same conclusions drawn, taking the whole as perfectly correct, as from those which have been already produced.

The force the enemy could collect in Catalonia in a given time; the impossibility of any impression being made on Tarragona within that time, the impropriety of risking an action, the necessity of raising the siege, and the con-

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sequent failure of the second object of the instructions, as well as the success of the operations, as connected with the first object : namely, the diversion in Valencia, the whole of this appears to have been considered as admitted fact, and General Murray only states, that he trusts he shall be able to shew, that no time was lost *when he had decided upon abandoning the siege*. Upon this point there seems to be no great difference of opinion ; but I have to submit to the Court, how does this apply in answer to any one of the Charges preferred ? In no one is it stated that time was lost in the re-embarkation, on the contrary, the third rather strongly insinuates directly the reverse. The first amounts to an accusation of loss or misuse of time, certainly ; but it is in coming to the decision in question, and not in the execution of it ; and the last Charge is so much the contrary, that it holds out an imputation of unnecessary haste and precipitation as to the execution, whilst the delay alluded to in the second Charge, is of a very different description, and relates to the not forthwith returning to Valencia according to the instructions received, as soon as the siege was abandoned. But in no part is the charge of unnecessary delay applied to the manner in which the resolution of abandoning the siege, when once adopted, was put into execution.

The success of the operation as a diversion in Valencia, the first object of the plan, it now appears, was so complete, that the French force remaining in Valencia was reduced below 11,000 men, and in the comparative statements of the two armies here repeated, the impropriety of risking a general action is placed in quite as strong a light as before, and the known difficulties and dangers of re-embarkation on that coast in a much stronger. We have here also some material facts more minutely and distinctly stated, and from thence we learn, that on the 7th of June, General Murray received the reports, that a disposable column from Gerona was in march from Barcelona, and that every effort was making to collect 10,000 men there, that this news came confirmed from every quarter, that General Copons stated it to be the case, that Colonel Manso, who commanded the advanced posts, and who had constant communication with Barcelona almost daily, confirmed a principal part, and on one occasion, raised the force of the enemy to 12,000 men in that quarter. In short, from whatever sources the General seems to have derived his information, he found the numbers pretty nearly agree, and though the fact may have varied in this respect, from the reports, *he*, at least, appears to have considered the latter

as being every way deserving of credit, and to have been himself fully impressed, both with their general accuracy and truth.

On the 10th, the Barcelona column is stated to have occupied Ville Reyna, and on the 11th, Villa Franca, about twelve hours march from Tarragona. On the 9th, we are informed, that the news was received by express, that Marshal Suchet had left Valencia for Tortosa, with 9000 men, and that he was then advancing with the utmost rapidity, and further, that it was *previously* known that 1000 men had arrived at Tortosa, and 2500 at Lerida. On the evening of the 11th, accounts arrived, that Marshal Suchet had quitted Tortosa on the 10th, and that he might, therefore, be before the Allied army by the 13th, on which day, in fact, the head of one of his columns appeared.

The only other passage in this letter, which I feel it right to point out to the Court, is that which contains a repetition of the prediction on the part of General Murray of the Commander of the Forces blaming him for the very fault with which, in part, he is now charged. The sentence of condemnation, in this respect, seems as it were, passed upon his own conduct, and that in stronger terms than before, namely, "upon a review of this case, I believe your Lordship will rather be of opinion, that I continued the siege too long, than that I abandoned it too soon, and I can only plead an extreme anxiety to carry your Lordship's views into execution as my excuse. *I saw the moment when in all prudence, the cannon ought to have been embarked, and the enterprize abandoned; but that followed,*" &c. &c. proceeding to set out the reasons for not having acted on this opinion, which, I conclude, will now be again urged before this Court, and on the force and validity of which, therefore, the Members will have ultimately to pronounce. I have only to submit that, however, they might explain, or justify the not immediately re-embarking the whole of the infantry, and leaving the spot altogether; yet that they in no way can justify the continuing on shore, and the continuing to land the heavy guns, stores, provisions, &c. up to the very hour almost of re-embarkation, and that they do not in any way apply any more than any other part of the statement, as an answer to the second Charge of the subsequent delay on the coast, and the re-landing of the whole expedition; the propriety of which, I shall hereafter have occasion to examine into, and contravene. For the present, I have only to submit, that the result of this last

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statement, appears to be, that the following up the first object according to the instructions, was sacrificed to a misplaced anxiety to accomplish that which was admitted to be impracticable, a line of conduct apparently, and, unless explained, equally at variance with the better judgment of the General, and the instructions which were to be his guide in these respects.

I must now request the Court to attend to the last and most detailed account of all that passed near Tarragona, and which, although it may be for the most part a repetition of what has been already heard, I feel it necessary, or at least, more satisfactory to read at length. As it appears, also, that this is the statement which was forwarded by General Murray, in consequence of the directions given him by the Duke of Wellington; for that purpose, the court may probably think it more advisable, that the letter of the Duke should be produced and read previously. You have notice, Sir John Murray, to produce these two papers. You will have the goodness to follow me in reading, and see whether the copy I have is correct.

The letter was read as follows.

Huarte, July, 1st, 1813.

SIR,

I had last night the honour of receiving your letter of the 23rd June, by a courier from Alicant, and this afternoon that of the 14th by Captain Carroll of the navy.

In the hurry in which you state that you wrote your dispatch of the 14th of June, you have omitted to give me a narrative of your proceedings, from the time of your making the coast of Catalonia, to the time of your quitting it, and you have not adverted to this omission in your dispatch of the 23d; I am, therefore, entirely ignorant of all the circumstances which occurred, which led to the result which you have reported; and it is impossible for me to form the judgment which, in your public and private letters, you desire, I should form on your proceedings.

You have likewise, in your dispatch of the 23d, expressed a wish that his Majesty's Government should decide on the subject; and as you acted under instructions from me, and as the circumstances which have occurred, are of a nature to attract the attention of the public, it is best that his Majesty's Government, and not I, should form a judgment of them.

In order, however, that a judgment may be formed by

any body, it is necessary that you should furnish information on the following points :

First. It appears, by your dispatch of the 23d, that you disembarked on the 3d of June. What were your first operations? When did you break ground before the place? At what distance? And what was the progress of the siege, from your investing the place, to your raising the siege?

2dly. It appears, that you had possession of the Coll de Ballaguer, at what time? By what troops, and in what manner, was that post taken possession of? Where did these troops land?

3dly. On what days did you disembark the artillery, ammunition, and stores?

4thly. On what days did you put them in battery?

5thly. Did you ever open your fire against Tarragona?

6thly. On what day did you raise the siege, and embark your troops?

7thly. What reinforcements, as mentioned in your letter of the 14th, did you expect, which induced you "to continue the siege so long?"

8thly. Where was the corps of Spanish troops under General Copons, between the 3rd and 13th June, and what was the nature of the communication you had with them?

9thly. Where were the enemy's separate corps, on their march from Barcelona and Tortosa, when you determined to raise the siege?

10thly. It appears, by the dispatch from Lieut.-General Lord W. Bentinck, of the 19th ultimo, that he joined the army near the Coll de Ballaguer, on the evening of the 17th, and then decided upon the embarkation of the army. What were the operations of the army between the period of the raising the siege, and the junction of Lord W. Bentinck, which brought them to the Coll de Ballaguer, and where was the Spanish corps under General Copons during that time?

11thly. Where were the enemy's corps during that time?

I think it proper to take this opportunity of inclosing you a return of Suchet's army, which I found among King Joseph's papers.

I have the honour to be,

Sir,

Your most obedient,

Humble Servant,

WELLINGTON.

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Lieut.-Gen. Sir John Murray. It is quite correct.
Gen. Sir G. Beckwith. Have you the return of Suchet's army which is there referred to?

Judge Advocate. I have not that.

Lieut.-Gen. Sir John Murray. I have a copy, which I shall lay before the court in the course of my defence, or I will put it in now, if that will render it clearer.

Judge Advocate. There is a paper here, which will partly answer the purpose. I will now proceed to read the statement, made in consequence of that letter by General Murray to Lord Wellington, it is dated Alicant, July 15th, 1813, addressed to the Marquis of Wellington.

It was read as follows:

Alicant, 15th July, 1813.

MY LORD, Having, at considerable length, reported to your Excellency the situation of the Allied army, on the morning of the 12th June, and the measures which, in my opinion, were prescribed to me by the rapid approach of superior force, I shall now, in obedience to your Lordship's instructions, proceed to state the transactions of the army previous and subsequent to that day; the positions of the Catalonian army, and my communication with the General who commanded it.—I trust I shall be able to give your Lordship all the information you require, although the absence of the engineer and artillery officers, with the army, will prevent me from giving a daily account of the stores, as they were landed.—I can assure your Excellency, however, that no time was lost in this operation, tedious in itself at all times, but at Tarragona particularly so, on account of the heavy swell that very frequently sets in, and which, on the 8th and 9th, almost entirely interrupted the communication with the transports. On these days no stores could be landed, and the lightest boats only could pass to the shipping.—To this inconvenience the whole coast in that neighbourhood is exposed for days. An embarkation might be impracticable, and that consideration made me extremely anxious when it became impracticable to carry on the siege, to profit of the state of the beach, as it could not be depended upon from one day to another.

On the 2d of June, as I have reported to your Lordship, the fleet anchored to the eastward of the point of Salou, and the brigades which had been previously ordered to hold themselves in readiness to land, were put into the boats; but the surf ran so high that, in Admiral Hallowell's opi-

nion, it would have been unsafe to land them, and they returned to their ships.

Previous to the fleet coming to an anchor, the brigade commanded by Colonel Prevost, and composed of the 67th regiment and the battalion of Roll Dillon, with a proportion of artillery, and the necessary engineer officers, were detached to the Coll de Ballaguer; and General Copons, in compliance with a request I made him, detached, during the night, two battalions to co-operate in the attack on Fort St. Phillippe.

On the 5th two other Spanish battalions were sent in consequence of some movement of the enemy from Tortosa—On the 7th, the fort capitulated, as I have reported to your Lordship, in a former dispatch.—Colonel Prevost landed to the eastward of the fort, and within about one mile of it.

On the 3d of June, soon after sunrise, the disembarkation commenced, and during the course of that day, the whole of the infantry nearly, with some field pieces, but without their horses, were landed. In the evening, some stores and baggage, and some of the staff-officers' horses, were landed likewise, but in a very small proportion. The place was immediately reconnoitred and invested, the point of attack decided upon, and the place for depot of engineers and artillery stores fixed.

Having reconnoitred the fortress, I decided on attacking it on the western side, which is not only the weakest, but was likewise the most convenient, and saved great labor of bringing up the stores to the batteries.—Unfortunately, however, the enemy had very nearly completed the re-establishment of the Fuerte Reale, which it was indispensably necessary to take, before any batteries could be erected against the town. The enemy was still at work at the fort, and, to prevent his strengthening it, two batteries were begun in the evening of the 4th, although we were in no state of preparation to carry on the operation of the siege.—On the morning of the 6th, these batteries (the one of a howitzers, the other of two 24 pounders) opened their fire with good effect; but it was found expedient to erect another battery of 2-24 pounders, which was begun and completed in the night of the 6th. At day break, the 7th, this battery opened its fire; and, on the morning of the 8th, the Fuerte Reale was reported to me, by Major Thackaray, the commanding engineer, as practicably breached.

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The Fuerte Reale lies between 350 and 400 yards from the body of the place.

When, however, Major Thackaray made his report to me, he requested that the work should not be stormed, informing me, that he could turn the immediate possession to no account, and that retaining it would cost the lives of many men. Every delay was to be regretted; but, as the state of the fort was now such that it could be taken when convenient, I consented to defer the attack, and directed that the fire upon it should continue only sufficiently to prevent its re-establishment.

During this time the artillery and engineer stores, and the cavalry and artillery horses, were landed, when the weather would permit, and the engineer officers continued their preparations for the siege. On the 8th, these were sufficiently advanced to enable Major Thackaray, at a distance, I think, of about 450 yards from the body of the place, to commence two heavy batteries to enfilade the place proposed to be attacked, in the one 6 24 pounders, in the other 4 howitzers and 2 mortars were placed. In the night of the 10th, and in the morning of the 11th, their fire was opened; but, although the fire was well directed, and kept up with great spirit, no diminution of that from Tarragona was perceived during the course of the day. Major Thackaray having reported to me, that he was now perfectly prepared to push the siege with vigour, the fire on the Fuerte Reale was increased during the 11th, and it was decided to storm that work and the Manna in the night; but the intelligence I received late that evening of the approach of Marshal Suchet, combined with the march of the column from Barcelona, prevented me from carrying my intention into execution.— I thought it would have been an useless waste of the lives of British soldiers, to carry a work which I saw must be abandoned the next day, without any possible advantage being derived from it. So far, my Lord, had the operations against Tarragona been carried when the siege was raised.

In the first view of the case, your Lordship may perhaps be of opinion, that more might have been done, and, under more favourable circumstances, no doubt we might have been further advanced, but under no circumstances materially so. Your Lordship, in judging of this point, will, I hope, take into consideration the strength of the place which, although the outworks (with the exception of the Fuerte Reale) were destroyed, was still in a most formidable state of defence, such, indeed, that major Thackaray, on the 8th or

9th, declared it his deliberate opinion, that the place could not be taken in less than fourteen or fifteen days from that time.

It is likewise to be recollected, that the army invested the place without a single preparation having been made for a siege. We had not a single fascine or gabion, nor did the vessel arrive, which had been sent to Ivica for the materials collected, until the evening of the 4th or 5th. It was not until the day following their arrival that the materials could be brought to the depot, and these most necessary articles for a siege began to be made.

A considerable delay was further experienced by Major Thackaray, from the irregularity in landing the stores—much of this, from the surf and weather, was probably unavoidable; but much likewise proceeded from the irregularity of the transport boats, and from their working in the night, when they could not be seen. A considerable delay arose likewise from the slowness, and the great unwillingness, with which the foreign troops worked.—This was a most serious inconvenience, and delayed the opening of the two last batteries for 24 hours.—It required an additional party of 200 British soldiers, to carry to the batteries the ammunition which one of these parties threw away when they came under fire.

All these circumstances together tended to retard our progress; but still, from the 4th at night, till the 11th in the morning, five batteries were constructed; and we were then in a state to prosecute the siege without fear of delay had we by good fortune been enabled to continue it.----Before I conclude this part of the subject, I beg to state that it was not till after the fall of the Coll de Ballageur that, in point of fire, we derived any material assistance from the naval branch of the expedition.---The bombs and gun-boats came from thence on the 8th and 9th, and I think, but I cannot for certain recollect if it was so, that some of them were again sent back on the 10th or 11th.

It will, my Lord, be difficult to give any detailed account of the communications I had with the Spanish General. They were principally verbal, and always friendly. On every occasion, I found General Copons most willing to assist us, in as far as his power and means extended, which however were both limited. I should, indeed, have wished to have the Baron d'Erolles with the army, but General Copons thought his services of more importance elsewhere, and he objected to calling upon the Catalonians to arm themselves,

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which is a measure that, in all probability, would have been attended with important advantage.

General Copons was at Reus, when the army landed, and he continued there till the 10th. To my regret I soon found that his army was much weaker than I had been led to expect it, and that it was without the means of subsistence, and without cannon; 4 battalions were with the General at Reus, a considerable proportion of the army were near Barcelona, and a part of it with General d'Erolles in the northern part of the Province. It was arranged at an interview on the 3d, that the corps near Barcelona should draw near Tarragona, that we might be better enabled to support it, and to prevent its being separated from the army employed at the siege. This corps was rather placed to observe the enemy, than to oppose him, for it could have made no resistance if he advanced in the form we had to expect.

From the time of our arrival till the 10th various unimportant movements were made by these troops; but on that day, and on the 11th, they were thus posted:—two battalions were at the Coll de Ballaguer, two with Baron d'Erolles at Vick, two in garrison, what was stated to be 1400 men, at the Coll de St. Cristina, and the remainder with General Copons on the coast road, which leads from Barcelona to Tarragona. The General then stated his whole force to be about 8500 men of every description. On the 11th I had an interview with General Copons at Vendrills, and being ignorant of the rapid approach of Marshal Suchet, I decided on joining him with a considerable detachment of the besieging army, and to give battle to the Barcelona column if it continued to advance—this, from the intelligence I received on my return, became unadvisable, and having apprised the General of my intention of raising the siege, he crossed the Gaya and marched towards the Coll de St. Cristina.

Of the movements of the Catalonian army after the 12th, I can give your Lordship no accurate account. I know, however, that when the enemy retired from Villa Franca, some troops followed him towards the Lobregat, and that General Copons returned to Reus, but on the approach of the enemy on the 15th, he again retired to the mountains although he knew that the Allied army was at the Coll de Ballaguer, and this was in conformity to the resolutions he had taken, never to place his army in conjunction with ours, in a situation where that retreat was not

open to him. He stated to me, and he stated with great truth, that our lines of operation were totally different, that we might retire upon the sea, but that if his army was cut off from the northern part of the province, it must be taken or dispersed, and the province must be entirely lost. Embarrassing as this was, I could not but admit the justice of his observation, and the propriety of the resolution he had made, although it almost to a certainty would deprive me of the assistance of his army in case of a general affair, and without his army, I could scarce have brought 9000 men into the field. General Copons repeatedly told me, he could do nothing against the column from Barcelona. I mention this merely as a proof (a corroborating proof at least) either of the strength of this column of the enemy, or of the weakness of the Catalanian army, because I know the former has been as much diminished by report without foundation, as the other has been increased without information on the subject.

It was, my Lord, about noon, on the 12th June, that I received information that the enemy had, by a night march, arrived at Villa Franca, which is about 18 or 20 miles distant from Tarragona, and I knew that Marshal Suchet had quitted Tortosa with the rest of his force about mid-day on the 10th. And it was in consequence of the approach of both these corps that I raised the siege. To either of them, those that were in my confidence knew I would have given battle, but to both, I then thought, and still think, I was unequal. On this part of the subject, however, I have addressed your Lordship at such length in my letter of the 23d ultimo, that I shall, merely in reply to your Lordship's question as to the enemy, state that at the same time I directed the siege to be raised, the main body of one column of the enemy was at Villa Franca, distant only 18 or 20 miles, and that this column never was stated to be less than 8000 infantry, with a proportion of cavalry, and ten field pieces; and that Marshal Suchet's army was on its march to Tarragona; one part of it was at Perello, and a strong division had arrived at Bandillos, whose advance on the morning of the 13th, was engaged with our cavalry in the plain of Tarragona.

I really believe, my Lord, that whatever might have been the opinion of some at the time, there is no officer now acquainted with the positions and strength of the two armies, who is of opinion that the siege could have been prosecuted, but I know it is still said, that by a delay of a few hours,

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the cannon might have been saved. A delay of a few hours, I affirm, would have done nothing; a delay of nearly eighteen hours might, but in these eighteen hours, we should have been exposed to all the misfortunes I wished to avoid, and this your Lordship will clearly observe, by adverting to the distances at which the enemy's corps then were; but it is further necessary to advert to the circumstance, that from noon till it should be dark, no gun could be removed from the batteries. To convey them to the beach, and to embark them if the weather permitted them to be embarked at all, could not have required less than six or seven hours at least, and that number too, could only be expected by exposing a great number of men under fire at the same time. It would, therefore, have been five, or more probably seven o'clock, in the morning of the 13th, before a single man could have been put into the boats; your Lordship will observe, further, that as the enemy was approaching us, a separation of the troops became almost impracticable; by this delay, and still as the transports were laying at three different places, we must have attempted it, or we must further have waited till they were all collected, and that, too, when the wind would permit them to assemble, whether in other respects suitable or not; for under the idea of being attacked, I could have risked no partial embarkation. I might have had my choice, perhaps, whether I chose to loose my infantry, or my cavalry and artillery horses, but both, in the presence of the weakest of these corps of the enemy, I could not have saved. In short, my Lord, I had but this choice, and delay was destruction. I must either have marched both against the column from Tortosa and that from Barcelona (both being nearly equally pressing), or I must have decided immediately to embark. As my strength did not admit the first, I venture to hope, however much it is to be regretted, that your Lordship will not condemn me for having adopted the latter line of conduct. It has, I am inclined to believe, been represented to your Lordship, that the army might have retired on the Coll de Ballaguer, and have embarked to the westward of that place; in my extreme anxiety to save the cannon, I was persuaded by Admiral Hallowell to decide on attempting this operation, although it was allowed that with an easterly wind, and in the presence of the enemy, the embarkation would have been impracticable; the consent I gave was reluctant, and the approach of the enemy rendering this line of conduct much less advisable,

I was obliged to change my plan. The difficulties may be simply stated to be these, that I should have been obliged to march through a country for about twenty-five miles, when there was not even water to be procured—that on our arrival there, we should have been exposed to the same difficulties during the whole period of the embarkation, both for the men and animals, which were about 1700—that the whole time of the boats would have been taken up in landing provisions, forage, and water, and, consequently, that the embarkation must have been considerably retarded, and lastly, that all this must have been done in the presence of Suchet's army in the first instance, and in a few days, (too probably) of both corps; and I beg your Lordship here to recollect, that under no circumstances would it have been practicable to embark the army in less than three days. The operations of the army, after the siege was raised, were of little importance.

An express from the Coll de Ballaguer during the night of the 12th, informing me that the enemy had passed a large body of infantry towards Tarragona, induced me to go there immediately. The cavalry and a part of the field train had been sent to the Coll de Ballaguer to be embarked, and on my arrival there, I found that the cavalry had been engaged, and that it would be necessary to land more infantry than what was stationed there, to protect the embarkation, as the remainder of the infantry arrived. I was induced to land it likewise, in the hopes of being able to cut off a division of the enemy, which was stationed at Bandillos, to which it had retired on the arrival of the fleet at the Coll de Ballaguer; on the night of the 15th, however, Marshal Suchet withdrew the corps, and on the 16th, the division of the Allied army which had been opposed to it, returned to the Coll de Ballaguer. On the 17th, I expected a general attack, for the corps from Barcelona had advanced to Cambrills, which is only about ten miles from the position we occupied, but, for what reason I know not, it withdrew to Reus during the night. In the afternoon of this day, Lord William Bentinck had carried into execution my determination of embarking the army.

In one of my former letters, I stated to your Lordship, that the expectation of reinforcements, among other reasons, induced me to continue the siege of Tarragona longer than I otherwise would have done, and your Lordship desires to know from whence these reinforcements were to come. In reply, I beg leave to acquaint your Excellency, that

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about a fortnight or three weeks before I left Alicant, I was informed by Lord William Bentinck, that he intended to send me the 44th regiment, the 6th battalion of King's German Legion, and some more Sicilian and Italian troops, and that I might expect them in ten days; the two regiments alone, would have amounted to nearly 2000 men, and so considerable a force I thought might make a very essential difference in the prospect of our affairs, and I expected them hourly.

In your Lordship's letter of the 1st July, is inclosed a statement of Marshal Suchet's force on the 15th of May, I conceive that this return has been made in reference to some particular object which the French General had in view; it is not improbable that it was in the view of again attacking the position of Castalla, which I understood he had in contemplation. Your Excellency will observe, that the troops only are mentioned which are in the neighbourhood, and, consequently, applicable to that purpose, and that no notice is taken of sick men, or detachments of the corps. The return is expressly of men *present*, and of three divisions only. On the first inspection of this return, it would appear that I had over-rated Marshal Suchet's army, but I believe I can shew, and in a great measure from the return itself, the contrary has been the case, and particularly so in cavalry. I take the liberty of adding to this report, a statement, which will account for the apparent difference. I have always calculated that Marshal Suchet's force in the kingdom of Valencia, amounted to 24,000 men of all arms, and of these, about 2000 were cavalry.

Having now brought under your Lordship's notice every thing that occurs to me as the subject of the expedition to Tarragona, in this letter, and in that of the 23d of June, I submit the whole to your Lordship's decision, and I feel confident that what I have advanced, will be coolly considered. It was neither in the presence nor in the power of any in this part of the world to know as much of our situation, or to reflect upon it as deeply as I necessarily did before I was called upon to act. Perhaps a more minute acquaintance with it would have changed the opinions of many with whom I may at present differ.

Judge Advocate. Connected with this is a statement of Marshal Suchet's force.

Gen. Sir Geo. Beckwith. By whom is that statement?

Judge Advocate. It is Sir John Murray's, with his own additional observations.

It was read as follows :

Statement of Marshal Suchet's Force.

General St. Cyr states three divisions present at...	17,378
Troops from Catalonia known to have been lying in Valencia.....	1,601
Severolle's division, four battalions, at 700 each battalion.....	2,800

Total of St. Cyr's return..... 16,779

Omitted by St. Cyr.

Division mentioned by Suchet as having marched towards Tarragona lately, at least.....	3000
Garrisons of Valencia and Murviedro.....	900
Garrisons of Peniscola and Tortosa.....	700
Denia Gandia and the moveable column on the Coast.....	400
Riquena and Morelia.....	250

Total Infantry..... 22,029

Cavalry.

General St. Cyr's statement.....	1,867
With Severolle's division.....	150
Remainder of the twelve Hussars supposed.....	350
Ninth Hussars from their own state.....	450

Total Cavalry..... 2,817

Independent of sick, wounded, and men on detachments of these troops mentioned by St. Cyr; a moveable column under Rerfort is likewise omitted, but all these together will, it is supposed, make a total, without including the artillery, which is numerous, of.....	2,000
Infantry brought from above.....	22,029

Grand Total..... 26,846

N. B.—The 12th Hussars were known to be in Valencia, but on St. Cyr's return they were sent for.

J. MURRAY, Lieut.-Gen.

Judge Advocate. Upon these documents I can, of course, now have but very few observations to make, as far as the first Charge is concerned. The dangers of the coast are put forwards in a more prominent point of view than ever,

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On the 8th and 9th we find nothing could be done, but on the 10th and 11th, I must submit to the Court, that taking all the other premises and statements as correct, and that the raising of the siege was inevitable, instead of being employed in landing more stores and guns, or carrying them forwards into situations of greater danger and exposure, every effort should have been made to remove, and place in security; and, at least, prepare for re-embarkation every thing that had been already endangered; and which, from the period, when the attempt upon the town had been considered as impracticable, remained exposed without any possibility of advantage. This certainly appears to have been the moment seen by the General as he states, "*when in all prudence the cannon ought to have been embarked;*" and all we can have to regret is, that his conduct was not more consistent with his conviction. In the present letter the Court will also have observed the following passage: "for days an embarkation might be impracticable, and that consideration made me extremely anxious, when the continuance of the siege became impracticable, to profit of the state of the beach, as it could not be depended upon from one day to another." I quote, and repeat it from a conviction, that no language which I could employ, would be so likely to satisfy the Court of the propriety of having acted in a manner, different from that which was pursued by the General.

Here, also, I cannot but once more repeat how fully it appears, that General Murray, from this statement, must have been aware, and in his own mind convinced, of the impossibility of success attending any attempt to obtain possession of Tarragona by a coup de main; but that, on the contrary, even a considerable length of time must necessarily elapse before he could, in any way, accomplish that object. And further, that these opinions must necessarily, in a great measure, if not entirely, have been formed by him before he had been 24 hours on shore; as, by that time, almost every means of forming such opinions must have been afforded to him. Another important fact, to which I have before alluded on this subject, is now also stated: namely, that Major Thackeray, the principal officer of engineers with the army, had formed a deliberate opinion so early as the 8th or 9th, that Tarragona could not be taken in less than fourteen or fifteen days; and that this opinion of an officer, the most competent, of course, to decide on such questions, had been, at that period, communicated to General Murray, in confirmation of his own.

As it appears, then, to have been clearly ascertained before the 10th, that nothing within the range of ordinary probabilities, upon which a man could safely venture to act, could put the Allies in possession of Tarragona, I can only again refer to the passage just quoted from the last letter of General Murray, as to the dangers of the coast, to convince the Members, I think, that the proper use to have been made of the 10th and 11th, at least, was to have secured on board the fleet, that which had become useless on shore, that which was then every instant in danger, without any adequate object; and which, in consequence of the General's not having acted in pursuance of his own reasoning and conviction, was ultimately abandoned and lost. From the details here set forth of the use which was made of the 3d of June, on the first embarkation, the importance of a single day is sufficiently obvious; nearly all the infantry, several field pieces (though without horses) and a proportion of stores, baggage, and staff horses, though small, are all stated to have been safely put on shore on that one day, when there was no particular stimulus for more than ordinary exertions.

I have already mentioned, that, with the details of the progress of the siege, the Court is not likely to have any concern; should that have been necessary, a still more minute investigation, than the one read, would have been requisite; though a brisk attack is certainly recommended in the memorandum, it is no where in the Charges directly suggested, that a more vigorous prosecution of the siege would have been practicable, or attended with success; one fact mentioned in these details, it does, however, appear to me to be material to the present question to point out, namely, that the six 24-pounders, four howitzers, and four mortars, were not placed in the batteries, against the body of the place, until the night of the 10th, a period when, if the former reasoning is correct, instead of more artillery being placed in a situation to make its desertion and destruction inevitable, all that was already in danger should have been, even then, in a course of active removal. From the details stated, as to the Allied army, it is obvious how soon General Murray must have been acquainted with the inefficiency of its larger portion, when considered with a view to a general action. Without the assistance of General Copons, the army is estimated so low as scarcely to enable the English General to bring 9000 men into action. We have now also a more full statement of the exact positions of the French armies, at the time when it was determined to raise the siege, and which

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I must just point out, principally, as material to the consideration of the 3d Charge; but partly from an apparent inaccuracy in the statement, which may require explanation. It is mentioned that one column, of about 8000 men, coming from Barcelona, was at *Villa Franca*, about *eighteen or twenty miles* from Tarragona, having cavalry, and about 10 field pieces. In truth, however, I believe the distance of Villa Franca from Tarragona is about thirty miles; and Vendrills, to which place it was falsely reported the French column had marched, (though, in reality, it never advanced, at that period, beyond Villa Franca; but, on the contrary, fell back from the alarm created by Sir Edward Pellet's appearance off Rosas), is about 20 miles distance from Tarragona. This may serve to account for the inaccuracy as to distance in General Murray's letter. With regard to the other French army from Tortosa, it is stated, that Suchet was on his march towards Tarragona, that one portion was at *Perello*, and that a strong division had reached *Bandillos*, whose advance was engaged in the plain of Tarragona on the morning of the 13th.

I must now proceed to discuss the main point on the 2d Charge, and the several parts of the General's statements which are material for that purpose; namely, as to the conduct pursued immediately after the siege was raised, the Court bearing in its recollection, that, according to the instructions, the only remaining object then was, an immediate return to Valencia, to co-operate with, and assist, the Spanish armies remaining in front of the French position on the Xucar. To judge from this last letter, General Murray, I feel it my duty to state, appears neither to have sufficiently kept this part of his instructions in mind, at the period in question, nor to have been sufficiently aware of the importance, when the letter in question was written, as, in the introduction to the narrative, as to this part of the transactions, he makes use of the following expression: the operations of the army, after the siege was raised, are of little importance. The substance of the details given on this head appear to be as follows:—

As soon as the plan of re-embarkation at Tarragona was decided upon, the cavalry, and a part of the field train, were sent over land, across to the Coll de Ballaguer; for that purpose it was soon afterwards judged expedient to land more infantry on that point, for the further protection of their re-embarkation; and, finally, when the remainder of the infantry arrived there, it was resolved to re-land the whole, with a view of cutting off a division of Marshal Suchet's army

at Bandillos; and about the 13th or 14th (the precise date not being stated) it appears that the re-landing of the whole took place accordingly.

Before we proceed, let us now pause, to consider the facts before us.—In the first place, that this conduct was contrary both to the letter and to the spirit of the Duke of Wellington's instructions, with a view to the only object now remaining, I think there can be no doubt. This part of the case scarcely appears to admit of argument; the main point for consideration, therefore, will be, was there any *sufficient* inducement to adopt this line of conduct so contrary to that which was laid down in the instructions? Can you discover any think to satisfy you of its propriety, arising out of the peculiar circumstances of the case?—To this let us now turn our attention; and, for that purpose, I must first beg the court to recollect, that it was considered by General Murray as quite clear, that he was unequal to contend with the forces of the French Marshal, when united. It was on this account the siege had just been raised, and the cannon, stores, and ammunition sacrificed. It was, moreover the opinion of General Murray, that Marshal Suchet had the power of retiring any advanced portions of his army when he pleased, and of afterwards uniting the whole, and giving battle, when it suited his convenience. In short, I have only to refer to the letters which have been read in every part to prove to the Court, that all expectation of cutting off any division of the enemy, was deemed by Sir John Murray as idle and hopeless; that unless the enemy was guilty of the greatest act of folly, the thing was impracticable; and yet, with the full knowledge of all these facts, the dangers of re-embarkation at the Coll de Ballaguer remaining the same as when they were stated by General Murray to have been his reason for not having embarked the army there before, the French armies remaining in force the same, and in situation, if any thing, improved, in being nearer the Allies, every ground of objection to continuing on shore remaining the same, all the causes of the former hasty re-embarkation, and of the great sacrifices which has just been made, being in full force, in opposition to every principle upon which the General had just been acting—the very same thing is done and the very same risks incurred, which before had been condemned as improper; and this, moreover, when the inducement which had operated before, namely, the prevention of those losses and sacrifices which had been just submitted to, by acting upon the judgment which had

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been formed, *no longer existed*, and when no other adequate object can be, as far as I can see, discovered in any way to account for so direct a deviation from the instructions received. To pursue the detail of facts, we find them certainly just what the arguments and statements in General Murray's letter would have led us to expect.—On the night of the 15th, as the English approached, Marshal Suchet withdrew the corps from Bandillos; and, in the mean time, the corps from Barcelona advanced to Cambrills, only 10 miles from the allied positions.

On the 16th the English troops, in pursuit of the Bandillos French division, return without having accomplished their object, as, from the statements made, and formerly acted upon, was to have been expected; and on the 17th, when the Allied army, according to the instructions, ought to have been ready to act again in Valencia, General Murray found himself still near the Coll de Ballaguer; and, as is stated in this letter, with every prospect of an impending general action, to avoid which, on the 12th, so much had been sacrificed, and with every risk of a second re-embarkation to be still incurred. Lieutenant General Lord William Bentinck then arrives on the 17th, and the final re-embarkation of the whole army, which had just a second time been resolved upon by General Murray, (the idea of a general engagement having been again abandoned,) was, by the orders of Lord William Bentinck, on account of the complete state of disorganization in which he found the expedition, immediately carried into execution.

The letter then proceeds to justify the continuance of the siege so long, on the ground of expected reinforcements from Sicily, concerning which I have only to remark, that even if this Court should consider such a doubtful prospect of an accession of force to the amount stated, depending upon such a variety of contingencies, to have been a sufficient ground for delay near Tarragona, I cannot in any way consider that it will be deemed satisfactory as an answer to the charge of leaving the guns, ammunition, and stores, in the mean time unnecessarily exposed, upon such an uncertainty.

As to the details and reasoning concerning the force of Marshal Suchet, which fill up the principal part of the remainder of this letter, I do not now feel it incumbent on me to make any comments.

With regard to the third Charge, which, as I have already stated, will be entirely open to evidence on both sides, the

additional observations which it occurs to me as necessary, and falling within my line of duty to make in this stage of the proceedings, are very few in number, and arise out of the papers produced, which are now fresh in the minds of the Members of the Court. I shall shortly endeavour to point out what portion of that Charge appears to me to be already proved by the evidence already before the court, and what remains to be demonstrated by Admiral Hallowell.

In the first place, the facts generally of a hasty and precipitate embarkation, and that without any previous preparation and arrangement, and the consequent abandoning of a considerable portion of artillery, stores, and ammunition, are clearly demonstrated. So sudden was the resolution to re-embark finally adopted, and so little were the parties most interested prepared for this measure, that every arrangement was making, and every exertion employed, for a more vigorous prosecution of the siege, up to the very moment when the execution of that resolution had actually commenced; and General Copons, who commanded the Spanish army, acting in co-operation with, and under the directions of, General Murray, must have been led to suppose, from the instructions which he had received, that a battle with De Caen was on the very eve of taking place, in which he was to take a principal share; and I have little doubt in being able to make it appear, by the examination of one or two witnesses who are to be called, and from some parts of General Murray's correspondence with General Copons, that the latter continued to act on that supposition, and to remain (of course with considerable risk to his own troops) undeceived until after the guns in the batteries were spiked, and a large portion, at least, of the Allied army was actually on board the vessels.

By argument indeed and inference this is almost already evident from the facts and dates of which we are already in possession, as on the 11th, it seems that General Copons was left by General Murray with a full impression of the intention of the latter to wait for, and fight De Caen, with the assistance of the former. It appears, also, certain, that material losses were sustained, and that the hurry in which the re-embarkation took place was considerable;—for the more accurate details on these subjects, however, we must look to the evidence which will be produced.—The fact is clearly set forth; and, unless explained, certainly from what we have previously heard, does appear somewhat extraordinary—I allude to the sending off the Field Artillery and Cavalry for re-embarka-

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tion to a different, and somewhat distant, spot near the Coll de Ballaguer; when that was the precise spot which had been represented by General Murray as being so uncertain and dangerous, that it was upon that very ground he had objected to embarking the whole army there; and when by this plan, a separation also of the different parts of the army was, of course, produced by the embarkation of the infantry alone, and leaving the guns and cavalry without their protection, when it was mainly to avoid this very mischief of a separation, that General Murray, as appears by these statements, had determined not to allow of a delay sufficient to enable the Admiral, as he offered, to preserve the trophies, which were in consequence abandoned. The fact, also, that the Admiral did make the offer to secure every thing, if Sir John Murray would have consented to a certain delay, as proposed, is here most handsomely admitted on the part of the General. Though so much is however, as it seems to me, already proved, and that in a manner most satisfactory to the Court, one main part of the 3rd Charge, and that the most serious, as far as General Murray is concerned, remains to be made out in evidence; namely, that there was no actual necessity for doing what was done, and submitting to the losses which were incurred in consequence; whether the delay proposed by the Admiral, and that which would have been necessary to have been of any serious service, was, or was not, according to fair and reasonable probabilities, with safety practicable, in the circumstances in which the General was placed, or rather, perhaps, in which he had good grounds for conceiving himself to be placed, whether, from the immediate approach of the enemy, or other causes, all additional zeal, firmness, and exertion, would have been unavailing; and whether the delay required, would, or would not, have involved the army in a serious affair, with very superior forces, and have been attended with the probable destruction, of at least, a considerable portion of the army: these are the points upon which it appears to me, the evidence must principally turn, which will be produced by Admiral Hallowell, and General Murray; and upon the careful examination of which, coupled with the dates and facts already known, the Court will ultimately have to decide.

I have already observed, that the Duke of Wellington directed General Copons to send in his statement, also of all that had passed near Tarragona. In consequence of this order a very minute report, in shape of a diary of all

that had taken place from the 3d of June, 1813, to the 20th, and containing all the written and verbal communications which had been made by the English and Spanish Commanders to each other respectively, was forwarded to the Duke by General Copons.

The original I now have here, delivered to me by the Duke's military secretary, and much of it would certainly be material, and very much tend to the elucidation of the present investigation. Being unable, however, to procure the attendance of General Copons, the contents of this document, cannot, I think, be legally given in evidence in its present shape; with a view, nevertheless, to producing in evidence, the letters which are stated to have passed, General Copons has, at my suggestion, been requested to forward to England all original documents received by him from General Murray; and the latter has received a notice to produce the original communications made to him by the Spanish General; but, as I am quite uncertain how much of that which is set forth in this diary, and what parts of the above correspondence, if any, it may be ultimately in my power to bring in a legal shape before the Court, I have considered myself bound to abstain from all comments or observations arising therefrom, and which it might otherwise have occurred to me as material, to have derived from these sources.

My only reason for mentioning the matter thus far to the Court, is to put in my claim to produce hereafter any parts of the above, which can be regularly brought under the cognizance of the Court, provided I have the means of so doing before it shall be considered as too late. It is impossible for me to foresee in what manner, and to what extent, General Murray may explain his conduct, and answer the various charges and arguments which have been produced against him; I sincerely hope he will be able to do so, in a way that shall be deemed satisfactory; but as the Court must have observed that in more than one instance, he has relied in his justification upon the 13th paragraph of his instructions, and in one place has quoted the same, and stated that the mode in which the Generals were to conduct the campaign, and the degree of risk they were to run, was there clearly pointed out, it becomes necessary, before I conclude, to examine a little into this part of the memorandum, and to see how far General Murray appears to be borne out in the inferences which he would wish to be drawn from the same. The paragraph is this: "It must be

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understood, however, by the general officers at the head of the troops, that the success of all our endeavours in the ensuing campaign, will depepd upon none of the corps being beat, of which the operating armies will be composed, and that they will be in sufficient numbers to turn the enemy, rather than attack them in a strong position; and that I shall forgive any thing, excepting that one of the corps should be beat or dispersed."

By what ingenious arguments this can be fairly made matter of defence on the present Charges, or at least the two first, and more especially when considered as coupled and connected with the Duke's letter, in which the memorandum was enclosed, I feel quite at a loss to discover. Scarcely, indeed, can I see how it is at all directly applicable to the questions under consideration. But if at all, it certainly does seem to be unfavourably so, and not as matter of justification. The meaning appears obvious; several of the Spanish corps, it is well known, were composed of raw levies not to be depended upon, when opposed to French veteran troops, more especially if the latter were assisted by position.

It is also a matter of common notoriety, that many of the previous failures of the Spaniards, had arisen from their Generals not being sufficiently impressed with this unpleasant truth; but, on the contrary, suffering their zeal and confidence to get the better of their prudence, and thus continually risking general actions, which ought, except in cases of decided advantage and superiority, to have been most carefully avoided. On the other hand, the only advantage which the Spaniards possessed, or for some time were likely to possess over the French (excepting the good will and assistance of the inhabitants, as far as their fears would permit) was superiority of numbers; the memorandum, therefore, looking to the real state of affairs, appears naturally to prescribe in consequence, as a *general* rule in carrying on the campaign, the taking advantage of that which was favourable, and the avoiding that line of conduct, the danger of which had been already but too often apparent, and still existed in full force, and thus making use of, and at the same time carefully preserving, that superiority of numbers which the Spaniards then enjoyed, and which the defeat and dispersion of any of their corps would have destroyed. How then does this apply to the situation and circumstances in which General Murray was then placed. First, I should say generally,

it was quite beside the question at issue, that it was not strictly a matter that the General should ever have considered, as intended for his particular guidance at this moment, and in the particular case in question.

Suppose, however, the contrary, the next question will be, how does it apply, as a defence against a charge, for not having fought and risked a general action, when the result would have been attended with glory and benefit to the general cause of the world then at stake? It might have been, indeed, considered material, and would, I have no doubt, have had its due weight; still, however, I cannot discover how it can be made matter of justification for the perseverance in the siege, without object for the consequent losses incurred for the delay, in coming to the decision of re-embarking that which was uselessly exposed on shore, for the apparent want of all previous arrangement, and (until explained in some other manner) I must say, for the improper haste and confusion attending the re-embarkation, when the measure was at last finally decided upon; and, lastly, for the subsequent delay on the coast and re-landing of the army. To the whole of this the 13th paragraph, in truth, appears to me any thing but a defence, and if the Court shall view the matter at all in the same manner, they will, I think, come to the conclusion that, taken in its true sense and spirit, this paragraph is in fact the very reverse of a defence.

Next the loss of a whole corps, the loss of the equipments of an army, the loss of guns, (particularly of the description of some of the guns which were left behind) the loss of stores, ammunition, and the means of carrying on those sieges, which, in the general scope of the instructions, were evidently looked forward to in the course of the campaign, were of the utmost importance; such losses were objects of the very next, if not of equal, value with the loss of a corps, more especially when the infinite difficulty of replacing them in Spain is duly considered; and I must submit that, according to the real meaning of the 13th paragraph, they ought to have been most cautiously avoided; this, though not literally expressed, must, I think, in all fairness be considered as implied in the true spirit of the part of the instructions relied upon; and its natural operation, I conceive, should have been, to have acted on the strongest inducement to employ every precaution, and to act with the utmost zeal and activity for the prevention of such losses.

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As to the remaining part of these transactions also, namely, that referred to in the 2d Charge, General Murray, by this defence, appears to me to have placed himself in a dilemma from which it will be difficult for him, by the utmost ingenuity, to extricate himself. Admitting, for the moment, that not only the refusal to give battle, but also, that the hasty re-embarkation, and the material losses sustained in consequence, were all to be justified by an anxious desire to comply with the instructions contained in the 13th paragraph of the memorandum of the Duke of Wellington, how can the General do otherwise than condemn himself upon his own shewing, upon the very same principles, for again, and that almost immediately and voluntarily, placing himself, in direct contradiction to this same paragraph, according to his own interpretation, and clearly against the plain import of the remainder of the memorandum, into the very same situation of danger from which he had but just made such sacrifices to extricate himself; and that at a time when the very strong temptation to run such forbidden risks, namely, the preservation of a very material part of that with which he had been entrusted, and the natural anxiety which he must have felt to preserve the glory of his Majesty's arms untarnished, had altogether ceased to operate.

I am not aware that, on my part, as the Prosecutor for the Crown, on one portion of these Charges, that more remains to be done, than to lay before the Court, and prove the various papers and documents upon which these arguments have been founded; and, from this time forward, it will become my duty to endeavour to assist the Members to the best of my abilities, in carrying on a regular, impartial, and legal investigation of the question now to be tried. In concluding, I have only to apologize for the length of time that I have necessarily occupied the attention of the Court, and for my mistakes which I may involuntarily have made in reasoning upon subjects, with which, of course, being in a great measure new to me, I cannot be expected to be so well acquainted, as those who hear me.

And hoping that the Court will have the goodness to place all the errors and inefficiency of this address, to my not having had the opportunity of receiving those final instructions for my guidance from the Duke of Wellington, which I had at one time been led to expect, I now beg leave, Gentlemen, finally to submit the whole to your most deliberate judgment, convinced, that no part has been

intentionally misrepresented; and quite certain, that the ultimate decision of the Court will be that with which every one, who shall duly and deliberately consider the subject, and take the necessary and requisite means of information, will remain perfectly satisfied.

Some maps and plans were laid before the Court.

Judge Advocate. I would wish to state to the Court, that I do not propose to call any witnesses, provided General Murray calls Captain Zehnpsfenning, whom he has subpoenaed, if he does not, which, I understand, will be rather doubtful, he is a witness whom I shall have occasion to call, to prove several letters sent by General Murray.

Lieut. General Sir John Murray. I certainly did not intend to call Captain Zehnpsfenning, and I have written to him to say, that I should not. I have seen him this morning, and finding he is here, I will call him, certainly, just to put a question to him, in order that you may examine him.

Judge Advocate. Then I call no witnesses on the two first Charges.

President. You will consider whether you will call him upon your defence, or wish to have him examined now by the Judge Advocate.

Lieut. General Sir John Murray. Just as you please.

Judge Advocate. I will call him now. I would just mention to the Court, that Captain Zehnpsfenning informed me this morning, that being sent for suddenly from abroad, he has not got his uniform with him, and had not time to have one made; he trusts the Court will excuse his being in undress.

Captain Charles Joseph Zehnpsfenning sworn.

Examined by the Judge Advocate.

Q. Are you an English subject?

A. No, I am a German.

Q. Do you understand English?

A. Yes, I do.

Q. In what situation are you?

A. Lieutenant in De Murand's regiment.

Q. Are you a Catholic?

A. I am.

The Witness was sworn in the Catholic form.

Q. Are you in his Majesty's service?

A. Yes.

Q. In what situation?

A. Lieutenant in De Murand's regiment.

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Q. I believe you were with the expedition under General Murray, on the coast of Tarragona?

A. I was then employed as acting military agent.

Q. Do you remember on the night of the 11th of June, 1813, being sent to General Copons by General Murray?

A. Yes, I do.

Q. State to the Court what orders were given you, by General Murray, to convey to General Copons?

A. General Murray sent me to General Copons to tell him, that the next morning he would send him six battalions, that, with them, he should take up a position near the village Cashel, that his troops ought to take the left.

Q. That is General Copons' troops?

A. Yes, that is the whole.

Q. Do you recollect what General Copons said?

A. General Copons said very well.

Q. That was all?

A. Yes.

Q. Do you recollect writing a letter to General Copons on the 16th of June, 1813?

A. I recollect having written a letter for Sir John Murray to General Copons, but the date I do not recollect.

Q. Have you a copy of that letter?

A. No, I have not.

Q. You are not able, perhaps, exactly, to speak to its contents?

A. No, I am not at all, I do not recollect it.

Q. You kept no copy of it?

A. No, I did not.

Judge Advocate. Then this comes to nothing. I merely wished to see what part of General Copons' statement I might be able to prove?

Cross-examined by Lieutenant General Sir John Murray.

Q. Did I not desire you to inform General Copons at that time, that the intelligence I had received would oblige me to raise the siege?

A. Not, to the best of my recollection.

Judge Advocate. Perhaps the Court would now wish me to ask Admiral Hallowell, whether he has any statement to make on the third Charge.

Lieut.-Gen. Montessor. Are we to understand that the first and second Charges are closed?

Judge Advocate. Yes.

Lieut.-Gen. Montessor. Without the production of any evidence.

Judge Advocate. All the documents which I have read are now in evidence, being admitted by Sir John Murray and Admiral Hallowell to be correct.

Lieut.-Gen. Montessor. We have only documentary evidence before us.

Judge Advocate. Except the evidence of Captain Zehnpenning just produced.

Rear Admiral Sir B. Hallowell. The second letter to Lord Wellington, dated the 14th of June, and the last letter you have now read, I have never heard before, and as they contain matters that relate to the operations before Tarragona, in which I was concerned, I should wish to take till to-morrow, before I enter upon my address. I shall be ready in the morning.

Judge Advocate. What time would you take?

Rear Admiral Sir B. Hallowell. I should not take above half an hour. I should request permission to read those letters, if the Court will indulge me with the perusal, or an extract from them when I go out of Court.

Judge Advocate. The only question before the Court is, whether they will give the Admiral till to-morrow morning, to commence his address.

Lieut.-Gen. Sir John Murray. I think, Sir, a question might be made, how far it is regular that these papers should be communicated to Admiral Hallowell—it is supposed when an officer commences a prosecution, that he is prepared to support it—at the same time I have not the smallest objection.

Rear Admiral Sir B. Hallowell. If there is the least objection on the part of Sir John Murray, I will not ask it as a favour. I will trust to my memory.

Lieut.-Gen. Sir John Murray. Not the smallest.

General Harris. Sir John Murray makes no objection.

Rear Admiral Sir B. Hallowell. There are some parts which seem to imply a little want of co-operation on the part of the navy, and there is some statement as to the landing of the stores. I have my Journal here, and shall have occasion to refer to it, as compared with these letters.

President. Which letter do you refer to?

Rear Admiral Sir B. Hallowell. The public letter of the 14th of June, and the general statement of the whole, in answer to the queries of the Duke of Wellington.

Lieut.-Gen. Sir John Murray. Sir, I am sorry that Admiral Hallowell should conceive I accuse the navy of want of co-operation; on the contrary, I have taken care to

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state, that I received from the navy every assistance which it was in the power of the navy to give us—when I say that we derived no considerable advantage from the fire of the fleet, that alludes to the circumstance of the gun boats being necessarily employed at the Coll de Ballaguer, and that they could not come to us, till that place fell.

President. You seem to waive any objection to the communication of these papers?

Lieut.-Gen. Sir John Murray. Certainly.

President. If it will be satisfactory to the Admiral to have them, the Court are of opinion that that request may be granted.

Judge Advocate. They are now in evidence before the Court.

Lieut.-Gen. Sir John Murray. If there is any irregularity, I have a copy, which I shall be happy to offer.

President. I rather conceive the Court have no objection to these letters being communicated to the Admiral, if any one has, he will have the goodness to state it.

Lieut.-Gen. Montessor. I do not apprehend that it is in the power of the Court to object. Admiral Hallowell might have taken a copy as they were read, but no one can feel the least objection.

Judge Advocate. Admiral Hallowell, I am authorized to state to you, that by applying to me, you will have liberty of perusing the papers which are now in evidence before the Court.

President. As the Admiral wishes not to proceed till he has seen these papers, the best course will be now to adjourn, and to meet at ten o'clock to-morrow morning.

Adjourned to ten o'clock to-morrow morning.

SECOND DAY.

Tuesday, 17th January, 1815.

The Court met pursuant to adjournment.

Rear Admiral Sir Benjamin Hallowell. Mr. President, my letter upon the table states, that there were twenty-one pieces of cannon left behind; I have a letter which I wrote immediately afterwards correcting a mistake; I should wish it to be read before the Court if there is no impropriety. I have also a letter from the Secretary of State, desiring me to substantiate, by evidence, every thing I had set forth in my letter. If it is the wish of the Court they should be read before them, I should be very happy to have them read.

Judge Advocate. I understand from the Admiral, that he wishes to produce these two papers, the first to shew that his having exaggerated the number of the guns was unintentional, and that he corrected the mistake as soon as he discovered it; the first is in these words,

The Judge Advocate read the Letter as follows :

*His Majesty's Ship Malta,
off Ballaguer, 19th June, 1813.*

SIR,

I beg leave to correct an erroneous statement contained in my letter of the 14th instant, as to the number of pieces of cannon left in the batteries before Tarragona, for by a return of ordnance stores brought off from thence, which I have seen since, I find that there were only eight instead of eleven 24 pounders abandoned, making the whole number eighteen instead of twenty-one pieces of ordnance left behind.

The letter mentions that the carriages of the whole were burnt; which I am sorry to find was also erroneous. The carriages of the howitzers only were burnt, those of the guns were not, but were left to the possession of the enemy entire,

I have the honour to be,

Sir, &c.

BEN. HALLOWELL.

Vice Admiral Sir Edw. Pellew, Bart.

Commander-in-Chief,

&c. &c.

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Judge Advocate. The other letter, I take for granted, is produced merely to shew, that you have no personal motive for appearing here?

Rear Admiral Sir B. Hallowell. No personal motive whatever; I appear here only in consequence of being called upon by the Secretary of State.

The letter was read as follows :

Downing Street, 14th Nov. 1813.

SIR,

Referring to your letter of the 20th July, I am directed, by Earl Bathurst, to acquaint you that his Royal Highness the Prince Regent has been pleased to direct, that Lieut.-General Sir John Murray shall be tried by a Court Martial on the enclosed Charges, as soon as the necessary arrangements can be made for that purpose.

As the third Charge has been framed upon the letters of Rear Admiral Hallowell, I am desired by his Lordship, at the same time, to request you will submit to the Lords Commissioners of the Admiralty, the propriety of instructing the Rear Admiral to be prepared to substantiate by evidence what he has stated, and, as far as possible, to keep together the necessary witnesses, in order that they may be ready to appear when called upon. The time and place for holding the Court will, when fixed on, be immediately made known to the Rear Admiral from head quarters.

I am, &c.

HENRY GOULBURN.

To John Wilson Croker, Esq.

&c. &c. &c.

Gen. Sir George Beckwith. At what particular period is Admiral Hallowell sworn?

Judge Advocate. The prosecutor makes a statement containing the knowledge of himself, and others; of course he cannot be sworn to that; when he has delivered that statement, he may then be sworn to the facts within his own knowledge. Then there is a letter of Mr. Croker, in consequence of the last, to Admiral Hallowell, dated the 15th of November, 1814.

The Judge Advocate read the letter as follows :

Admiralty Office, 13th Nov. 1813.

SIR,

I am commanded by my Lords Commissioners of the Admiralty, to transmit to you for your information and guidance, a copy of a letter from Mr. Goulburn, stating, that his Royal

Highness the Prince Regent has been pleased to direct, that Lieut.-Gen. Sir John Murray should be tried by a Court Martial, on Charges of which a transcript is enclosed, and desiring that you shall be instructed to hold yourself prepared, to substantiate by evidence, what you have stated in your letters on the subject; and, I am to inform you, that directions have been sent to Vice Admiral Sir Edward Pellew, to give the proper orders for keeping the necessary witnesses together, as far as may be possible, that they may be ready to appear when called upon.

I am, Sir,

Your most obedient,
humble servant,

J. W. CROKER.

*Rear Admiral Hallowell,
Mediterranean.*

Rear Admiral Sir Benjamin Hallowell.

Mr. President and Gentlemen of the Court, the letter which has been read to you, dated the 14th of June, 1818, is a copy of one written by me to Sir Edward Pellew, and I am called upon by Earl Bathurst, one of his Majesty's principal Secretaries of State, to substantiate, by evidence, what I have there set forth.

Previous to my calling any witnesses in support of the statement I have made in that letter, I feel it necessary to give an explanation of one part of it, to prevent any improper interpretation of my words.

In one part of the said letter I have stated, that "we have already been disgraced more than any British army ever was." In making use of these expressions, I beg it to be clearly understood, by every Member of this Court, that it never was my intention to attach the slightest censure to those serving under the command of Sir John Murray. No person can entertain a more exalted opinion than I always did, and still do, of that army. I do not think there are, in the King's service, any regiments in a higher state of discipline than they were, or whose officers and men, from the Generals commanding divisions to the private soldier, could be more anxious for an opportunity to distinguish themselves, than those who were placed under the command of Sir John Murray on the coast of Catalonia; and, in making the observations above alluded to in my letter, I beg to impress upon the mind of each Member of this Court, the true meaning of my words, which is, that the army, as a body, was disgraced by the manner in which

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it was *obliged* to act, in obedience to the order of its Commander-in-Chief.

From the time of my writing that letter, until the 13th of November, (the day on which I was superseded by Rear Admiral Penrose, to enable me to return to England to attend this trial) I had been constantly serving in the Mediterranean; and I have learnt, with great concern, that reports, very injurious to my character, have been circulated during my absence, the tendency of which has been, to infuse into the minds of military men, that I did, during the operations before Tarragona, endeavour to assume an authority unbecoming my situation as a naval officer; and to describe my disapprobation of the *manner* of raising the siege, after the embarkation had been decided upon, as a cabal raised by the navy against the army, thereby making me the promoter of a party spirit between the two corps.

To remove any impression, which such insinuations may possibly have made on the minds of any of the Members of this Court, I appeal to Sir John Murray himself for the refutation of the first report. I would ask him if, when he informed me of his determination to raise the siege of Tarragona, I made any reply whatever; he was conducting the operations on shore, and considering the question of raising the siege, as a military one, I gave no opinion on the subject, because none was asked of me; the measure was decided on, and orders were given by the General for its execution, before it was communicated to me—it is for military men to decide on the necessity there was for such a step.

But, Sir, when the re-embarkation was once decided upon, it became my duty to give every assistance in my power to save the public stores. I possessed the means of doing it; and, had the army been permitted to remain on shore during the night of the 12th of June, I am confident that all the provisions and stores, of every kind, would have been brought away.

With respect to the other report of my raising a cabal against the army. If my forbidding the naval officers to obey the orders which were delivered on the beach, by the Quarter Master General, between the hours of 8 and 9 o'clock in the morning of the 12th of June, which orders were to stop the embarkation of guns and horses, and for the boats to be ready to take on board troops immediately, can be construed into raising a cabal against the army, I must plead guilty; but, by the perseverance of those officers, who were employed on the beach in the execution

of the orders I had given them, about 20 pieces of ordnance were embarked, which would otherwise, most probably, have been left behind with the others. I can, with confidence further appeal to every officer serving under Sir John Murray, for a contradiction to such a calumny; and to testify, that no person could be more anxious than I was, or could exert himself more upon all occasions than I did, to anticipate the wants of the army.

I must beg the forgiveness of the Court for having trespassed on its time in making this statement; but since reports of so serious a nature had reached me, I felt it necessary, in my own defence, to refute them.

I shall now advert to another part of my letter, wherein I have stated my "fears, that every movement made by the army, under its present Commander, will add to its disasters." This opinion was formed upon the indecision I had, for some time, observed in Sir John Murray's character, and I shall lay before the Court a few instances of that indecision which occurred previous to my letter of the 14th being closed, that the Members may be able to judge if my apprehensions were well grounded or not. On the night of the 10th, two new batteries were completed, and the ordnance mounted in them: namely, one of six 24-pounders, the other of five ten-inch mortars, and five eight-inch howitzers.

At day light on the 11th, all the batteries, bombs, and gun-boats, opened their fire on the town, and the Fuerte Reale. This was the first day on which it could be said, that a serious attack was made. At sun rise Sir John Murray sent for me, and informed me, that the army of De Caen was coming on towards Villa Franca, or had arrived at Villa Franca, I cannot tell which, and that he was going out to take up a position to meet him. Previous to his going out, he gave directions to General Clinton, to storm the Fuerte Reale at night, if Major Thackaray of the engineers was ready. Our batteries and vessels kept up a heavy fire on the works of the town and Fuerte Reale the whole day.

At 8 o'clock in the evening Sir John Murray returned, and about half an hour afterwards, when I was at General Mc Kenzie's quarters, Major Thackaray arrived there with an order, from the Commander-in-Chief, for the Fuerte Reale to be stormed, and for General Mc Kenzie to make the necessary arrangements for carrying it into execution at 10 o'clock, when the signal would be made from the Oliva, by firing off 3 rockets; but before the appointed time

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arrived, the General had changed his mind, and at 11 o'clock I was informed, that the assault was not to take place. At midnight I went to head quarters, and was informed by Sir John Murray, that he had determined on raising the siege. In consequence of this determination of the General's, I directed Captain Withers, the principal agent, to have the transport boats on shore at day light, to embark the heavy guns and ordnance stores, and I went on board and directed Captain Inglefield to take all the men of war's boats, with 100 men from the Malta, and the same number from the Fame, for this service, and to superintend the embarkation himself.

By day light Major Williamson, of the artillery, had got all the heavy guns from the depot, and from two of the nearest batteries, down to the beach, amounting to sixteen 24-pounders, six 18-pounders, and 4 eight-inch mortars. Soon after day light the boats began to embark *them*, and such other stores as were ready; and I received an application from Sir John Murray, for the 20th Light Dragoons to be embarked also, I accordingly ordered Captain Bathurst to attend to this service at the upper end of the Bay, near Cape Salou, taking with him some flat boats, and the boats of the horse ships, for that purpose. On the examination of Captain Bathurst, the Court will be informed of what passed while he was employed on that service. Between 8 and 9 o'clock I landed from the Malta, and learnt, from Captain Withers, that the Quarter Master General had given orders to stop the embarkation of guns; and so great was his anxiety, that he had even desired Captain Withers to lower a gun down that was hanging in the tackle, going into the boat, telling him, that men, and not horses or guns, were to be immediately embarked. Lieutenant Cole, one of the agents of transports, made a similar report to me. I directed him, and Captain Withers, to attend to no other order than mine, and to continue the embarkation of guns and stores. I afterwards spoke to Captain Inglefield, who, I found, had given similar orders to those I had just delivered. Those officers will, on their examination, state more particularly what passed on this occasion.

On my speaking to Major General Donkin on the subject, he told me it was Sir John Murray's desire, that no more of the guns or horses should be embarked; but that we should begin immediately to take off the men, and embark nothing else, until the whole of the troops were on board, unless a

few of the staff horses could be taken off, as it was Sir John Murray's wish to indulge the Generals, by allowing them to take on board one favourite horse each, if it could be done"; he concluded by telling me, that General Clinton's division was on its march for embarkation, and would be down immediately.

I shall proceed in the course of the examination of the different witnesses, to prove to the Court, that almost immediately after this order had been given to stop the embarkation of guns and horses, General Donkin did, in the name of the Commander of the Forces, give directions to Major Williamson, of the artillery, to spike all the guns in the batteries, and to burn the carriages. That this order was repeated to Major Williamson, who was obliged to send directions by Captains Skelton and Scott, of the artillery, to the officers in the different batteries, to be prepared to execute it, but not to spike the guns until further directions, as I had undertaken to speak to the Commander of the Forces, to endeavour to dissuade him from adopting such a measure.

I immediately waited on Sir John Murray, and informed him of the disgraceful manner in which they were going on upon the beach. I told him that General Donkin had just given directions, in his name, to spike all the guns in the batteries, and to burn the carriages. I warned him of the disgrace we were bringing on the British character by such conduct. I intreated him, if he was determined on raising the siege, to do it in a soldier-like manner, and I pledged myself, if he would allow the guns to remain till night, that I would take every thing off.

Sir John Murray denied his giving directions to General Donkin to spike the guns, or burn the carriages, and authorized me to desire Major Williamson to stop the execution of that order. I accordingly went to Major Williamson, and communicated to him Sir John Murray's answer.

At about one o'clock in the afternoon I was again at the General's quarters, when a Spanish officer (Colonel Villamil) arrived with a letter from General Copons; and I trust that I shall be able to prove to the Court, that this officer brought information, that General Copons was at that time with his division of the Spanish army, at Altufalla and Torradembara, the latter place being about 9 miles in advance of Tarragona, towards Vendrills; that he reported the enemy to be at Villa Franca, and their numbers to amount to between five and six thousand men. I have not a doubt that it will

appear as extraordinary to every Member of this Court now, as it did to me on the spot, to hear, that within a quarter of an hour after the said Spanish officer had joined Sir John Murray, orders were given to embark the army, immediately, and leave the guns behind. The Quarter Master General was riding by the side of Sir John Murray, when the latter addressed me in the following words: "I have determined upon embarking immediately, and leaving the guns behind." I asked him if that was his final determination; he replied, "Yes, it is."

From the foregoing relation the Court will be aware, that about three hours before Sir John Murray gave this order, he had authorized me to communicate his directions to Major Williamson not to spike the guns, or destroy the carriages, and had promised me that the guns should remain till night; and I should have supposed, that the information brought by Colonel Villamil, would have induced him to persevere in his resolution to take every thing on board with him, even if he had still continued in his determination of raising the siege.

During the remainder of the day, and until midnight, we were employed in taking off the troops; and by 11 o'clock on the following day (the 13th) all the horses, mules, and field artillery, which had not been sent to Ballaguer, were embarked, under the direction of Captain Bathurst, of the *Fame*, without the smallest interruption from the enemy, whose only object appeared to be to destroy the batteries we had left, and to remove the ordnance from thence into Tarragona.

As soon as this operation was over, I proceeded off Ballaguer with the intention of embarking the detachment of infantry, which had been employed in the reduction of that fortress, and the cavalry and artillery which had been sent there the evening before for embarkation, leaving all the other transports in the Bay of Tarragona, with Captain Bathurst, of the *Fame*, that they might be ready to weigh, as soon as we had taken the troops and horses off, as I understood, from Sir John Murray, that he was directed by his instructions in case of being obliged to raise the siege of Tarragona, to land in Valencia as far to the northward as it was practicable.

On my arrival there I found that Sir John Murray had again changed his plan, and had determined to land the whole army at Ballaguer, with an intention of cutting off a column of 1500 men of Suchet's army, which, he had been

informed, was somewhere near that position; but I do not recollect exactly where it was, and, in consequence of requisition made by him, I sent orders that night to Captain Bathurst, to weigh, with the convoy, from the anchorage he was then at, and join me off Ballaguer.

At about 11 o'clock in the forenoon of the 14th, the transports from Tarragona were coming to anchor, and we began immediately to land the troops, with arms and ammunition only, and one day's provisions. At about noon the enemy's troops were seen from the Bristol, advancing towards Ballaguer, and their numbers, described by signal, to be "2000 infantry, cavalry and, believe, some cannon." Orders were immediately given by Sir John Murray to stop any further landing, and to embark the horses. As the enemy's troops advanced, the Thames, Ganymede, and Goshawk, fired upon them, which made them retire instantly behind the mountains.

At about 3 o'clock orders were given for landing the troops again, boats were employed all the afternoon embarking horses and landing troops. About this time part of our troops advanced, and drove the enemy from a hill in our front, and there was some slight skirmishing between the enemy and our cavalry pickets. We again stopped landing the troops, towards the evening the Commander of the Forces proposed landing the horses again.

As my letter was closed in the afternoon of the 14th, I shall confine myself to the repeated instances I have already adduced, of the indecisiveness of Sir John Murray's character, up to that day; but if he is desirous that I should give further instances, subsequent to that period, to shew, that I was fully justified in the apprehensions I have expressed in my letter, I am fully prepared to answer him.

I shall now beg leave to draw the attention of the Court to the first part of my letter, where I have stated, that, as no measures whatever had been previously adopted towards retiring, the embarkation took place with great precipitation, and 21 pieces of ordnance were, in consequence, abandoned, and left behind in their batteries.

To prove the first part I must refer the Court to the evidence which will be produced before them, by which it will appear, that on the 10th we were landing ordnance and stores to carry on the siege. That on the night of the 10th, we carried forward guns and mortars, and erected two batteries against the town and Fuerte Reale, which were opened at day light on the morning of the 11th. It will also appear

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that Sir John Murray, after receiving the information that De Caen had arrived at Villa Franca, went out himself in order to take up a position to meet the enemy. That on his return to head quarters, so late as 8 o'clock in the evening of the 11th, he continued firm in his resolution to storm the Fuerte Reale, and gave orders for it to be carried into execution at 10 o'clock, under the immediate superintendence of Major General Mc Kenzie; but, previous to that hour, ordered the siege to be raised. From these circumstances it will be for the Court to decide, whether the troops were hastily embarked, and without any previous arrangement being made as set forth in my letter.

In the letter of the 14th, which is before the Court, I have made an incorrect statement; I have stated that 21 pieces of ordnance were left behind; but my second letter, dated the 19th of the same month, will shew, that I lost no time in correcting the error, as soon as I discovered it; my letter was an official one. It never was my intention that it should be suppressed, I therefore sent a copy of it to the Admiralty, and on Sir John Murray's quitting the coast of Spain, I told him, that he must be too well acquainted with my sentiments, respecting the manner of raising the siege of Tarragona, to require repetition of them; and I felt it but justice to him to inform him, that, however strongly I might have spoken at any time on the subject, I had written full as strongly in my public letter to Sir Edward Pellew. Sir John replied, that he was aware of it, that he had reason to expect it from the manner in which I had always spoken.

I have ventured to mention this circumstance now, because great pains have been taken in high circles to establish an idea, that I had not acted candidly towards Sir John Murray; but referring to the conversation I had with him on the 12th of June, and to this explanation which took place on his sailing for Sicily, I trust that no impression of that nature will remain on the mind of any Member of this Court.

Unwilling as I am to trouble the Court with any thing that relates to myself, the numberless reports that have been spread respecting this business, press upon me the necessity of intruding a few moments longer on its time. Indiscriminate Charges are generally as false in fact as they are malign in their object; and, as a shadow, they are too subtle to be attacked. I shall, therefore, take no further notice of the reports that have been spread, so injurious to my character, than to assure this Court, upon mine honour, that nothing, in the least degree personal to Sir John Murray,

induced me to write the letter I did to Sir Edward Pellew. I had duties imperative upon me to my King and Country, they, in my mind, loudly called upon me to report my opinion of what I conceived so disgraceful to the British arms, and to the British character; and feeling, and believing, that no good could arise from any expeditions so managed, I felt it my bounden duty to detail what had passed, and what I thought likely to occur, to my Commander-in-chief. This was the motive, and the sole motive, of my writing the letter I did; and I hope I may be permitted to add, that I have been upon many conjunct expeditions, and I never was upon one without having received the most flattering testimonials of a cordial and zealous co-operation. I should not have said thus much, if it were not to repel every idea of any distinction in my mind, upon service between soldiers and sailors.

I shall now, with the permission of the Court, proceed to examine the witnesses in support of what I have advanced, and shall confine myself, as much as possible, to circumstances which relate only to the manner of raising the siege; and to shew, that there was not the slightest occasion to leave guns, provisions, or stores of any kind, behind.

Here I should have closed my address to the Court, had not Sir John Murray, in his letter to Field Marshal Wellington, made some assertions which appear to me to throw blame upon the naval department. Facts shall stand in the place of representations or assertions.

On the 2d, in the evening, it was the intention of Sir John Murray to land the advance. It was dark before the troops got into the boats, and there being a good deal of surf, I recommended waiting till the morning. On the 3d, at sunrise, the disembarkation commenced, and the whole of the infantry were landed about noon, and before 3 o'clock in the afternoon, 146 horses, 50 mules, 18 field pieces, and 4 howitzers, were put on shore, and the whole of that night was employed in landing platforms and engineers' stores. On the 4th, 240 horses, 144 mules, twenty-four 24-pounders, six 18-pounders, four 8-inch howitzers, and all the necessary stores for engineers, artillery, and the commissariat, were landed.

Sir John Murray states, that on the 8th and 9th no stores could be landed on account of the heavy surf, and the "slightest boats could only pass to the shipping." The Court will judge of the propriety of such an assertion, when I shall prove in the examination of some of the witnesses, that, on the

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8th of June, 261 horses were landed, belonging to the Brunswick Hussars from the following transports, Dædalus 38, Pomona 30, Iris 12, Abeona 44, Ann 30, Perseverance 38, Fairy 31, Ratcliffe 38, and, on the same day, 4 eight-inch, and two ten-inch mortars, were landed, with several other stores.

The delay and irregularity of landing the stores and working at night, which is complained of by Sir John Murray, has astonished me much, and the witnesses which I shall produce will prove the fallacy of this assertion. The vessel with the fascines, to which Sir John Murray has alluded, arrived from Ivica, at Tarragona, on the 6th, and I do not recollect that a single one was used in a battery during the siege.

Sir John Murray states that he gave his consent reluctantly, to admit of an attempt being made to save the guns; it was about 10 o'clock in the morning when he gave this consent, but in three hours he changed his determination, without the appearance of an enemy or any other visible cause, in my opinion, for such a change. It appears by the statement of Sir John Murray, that he was not aware of the diversion making by Sir Edward Pellew in the Bay of Rosas, at the time he was retiring so precipitately from Tarragona. Previous to our leaving Alicante, he had received the promise of a hearty co-operation, and I shall lay on the table attested copies of two letters to Sir Edward Pellew, of the 2d and 4th of June, requesting he would make a diversion in that direction, which, in point of fact, he did, and it will appear by the log of the Caledonia, which the Navy Office has furnished me with, that the fleet anchored in the Bay of Rosas on the 9th, and remained there till the 16th, during which time, they landed their marines. I would once more impress upon the Court, and I am sure they must perceive it, that any remarks I have made to the prejudice of Sir John Murray, have been produced by the necessity of shewing the full co-operation of the force under my command, and I must again repeat, that I had nothing at all to say to continuing or raising the siege. I afforded every assistance in my power. The determination to raise the siege was made without my knowledge of the propriety or impropriety of this measure; I never did presume to judge; it was the manner of doing the thing, and not the act, which I so strongly blamed, and which I still think was without cause or excuse.

Judge Advocate. Admiral Hallowell, I presume you mean

now to offer yourself as a witness, to substantiate such facts as come within your own knowledge?

Rear Ad. Sir B. Hallowell. I am ready to substantiate them.

Judge Advocate. Perhaps you may as well keep the statement in your hand, and refer to it.

Rear Admiral Sir Benjamin Hallowell sworn.

Judge Advocate. It is impossible for me to put the questions to you; as you have the matter before you which I have not seen before, it will be better for you to state the facts within your memory.

Rear Ad. Sir B. Hallowell. I am ready to make oath to every part of this, therefore, if you will have the goodness to ask me to any thing in it, I will answer.

Judge Advocate. I should think Admiral Hallowell may be sworn to the truth of all such facts contained in that statement as are within his own knowledge, and subject to such questions as may be put by Sir John Murray?

President. I should think so.

Judge Advocate. Now you are upon your oath, I call upon you to state whether all the facts contained in that statement, which come within your own knowledge, are true?

A. They are, so help me God! and every thing I have stated there as coming from others, I shall prove by witnesses.

Judge Advocate. As the more strict course of proceeding would be to put the questions upon this to Admiral Hallowell, I would ask you, Sir John Murray, whether you are satisfied with this mode of proceeding, or whether I shall pursue the more formal mode?

Lieut.-Gen. Sir J. Murray. Perfectly so. I am perfectly satisfied.

Judge Advocate. Then, now you will either cross-examine Admiral Hallowell, or call him again in your own defence?

Lieut.-Gen. Sir J. Murray. As I was not prepared for the line the Admiral would take, my cross-examination therefore may not perfectly answer; I will therefore defer examining the Admiral till I come to my defence.

Judge Advocate. You are aware you may do both?

Lieut.-Gen. Sir J. Murray. I will defer it, and take it altogether hereafter.

Judge Advocate. If the Members of the Court do not wish to put any questions to Admiral Hallowell, he will now proceed to call his witnesses to substantiate the Charge?

Rear Ad. Sir B. Hallowell. Then I will first call Captain Withers, who was principal agent of transports.

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Capt. Thomas Withers, R. N. sworn.

Examined by Rear Admiral Sir Benjamin Hallowell.

Q. You were principal agent for transports?

A. Yes.

Q. Were you employed in taking off stores and troops from Tarragona on the 12th of June 1813, when the siege of that place was raised?

A. I was.

Rear Ad. Sir B. Hallowell. May I beg leave to ask one question of the Court; the officers employed under me were dispersed in different directions, and I requested them to send me the narratives of their proceedings; it will save a great deal of time if their narratives, which I have, are read over to them, and they swear to them?

Judge Advocate. I should state to the Court that that is sometimes done, but it is not strictly the practice; the regular practice is, for any officer who has made a written statement very near the period at which the transactions took place, to have that statement in his hand to refresh his memory, but to give his evidence afresh looking to that statement.

Rear Ad. Sir B. Hallowell. I only mention this to save the time of the Court, that it is there ready taken down.

Judge Advocate. It is the wish of the Court that there should be questions put by you, and that the witness should answer them; he may refer to the paper, but a witness may have made a statement which he would not now substantiate upon oath.

Rear Ad. Sir B. Hallowell. State to the Court the orders you received from me on that occasion, and what passed while you were executing those orders.

Judge Advocate. You may look to that paper, but you will be careful not to state any thing which you are not prepared to swear to.

President. I think it will relieve the thing very much, because a fact may have been stated in a report which a witness would not be prepared to swear to.

A. Except as to point of time, I am prepared to swear to every thing stated here---except to half an hour, for instance.

Lieut.-Gen. Sir Samuel Auchmuty. You will then say in your answer, to the best of my knowledge it was at such a time.

Judge Advocate. You will refer to that paper, and give your answers, refreshing your memory by it.

A. About one o'clock, on the morning of the 12th, I

received the Admiral's orders to prepare for the embarkation of the battering train, military stores of every description, and provisions.

Gen. Sir George Beckwith. Do you mean at one o'clock in the morning?

A. Yes; after midnight---about one in the morning; also for the cavalry, the boats were to be assembled on the beach at day-light in the morning; this was about four hours before day-light.

Gen. Sir G. Beckwith. What o'clock was day-light in that country at that period.

A. I think about four; the boats were assembled about five or thereabouts; they did not get to the beach till five, or about that time. Previous to my receiving the Admiral's orders to send the boats, I received a requisition from General Donkin to send a division of five or six transport boats to the beach, to embark the books and papers in his office, and the boats were accordingly sent there; this was about twelve o'clock the preceding evening (the night of the 11th).

Judge Advocate. You had the requisition at that time?

A. Yes; I had the requisition between eleven and twelve, and I sent the boats about twelve. During the operation of embarking the stores, and after we had sent off several of the heavy guns on the morning of the 12th, the Quarter-Master-General rode down to the beach, where I was standing, to the best of my knowledge, about half after eight o'clock, but I had no watch, and desired that the embarkation of the guns should be discontinued, and the boats cleared for the re-embarkation of the troops, observing that men, and not guns or horses, were then to be embarked---that the General's object was to embark the troops in preference to any others. On my expressing surprise at an arrangement so different from the orders which I had received from the Admiral in the early part of the morning, which did not seem to imply any particular urgency, he informed me that the enemy were within two hours and a half march of us, and that such were the orders of Sir John Murray. I then asked him if any part of our infantry were coming to the beach for embarkation, and when we might expect them; he replied, that Lieut.-Gen. Clinton's division would probably be down in three quarters of an hour. I left him to make this known to Captain Inglefield, who was superintending the embarkation of the guns at another part of the beach, and afterwards went in search of the Admiral, whom I found in conversation with Major

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Williamson, near one of the depots, and communicated the information I had thus received from General Donkin, to the Admiral. The Admiral, however, directed me to go on with the embarkation till he had seen Sir John Murray. After some time, the Admiral gave me further orders to continue the embarkation of the guns and stores till two o'clock, after which hour, the boats were to be cleared, and re-assembled at the beach for the embarkation of the troops. It was about three o'clock when the boats were collected at the beach in sufficient numbers for the embarkation of the infantry, when the embarkation commenced, and continued, without interruption, until some time after sun-set, when the whole of the troops were embarked, except Lieut.-General Clinton's division, the rear-guard of which did not arrive at the beach for embarkation, until after eleven o'clock; and about twelve, or a little after, the whole were embarked. During the time the embarkation was going on, at this part of the beach, the staff-horses, and a part of the 20th Light Dragoons, were embarking at the Western Cove.

General Nicholls. Were the boats at the Western Cove under your command?

A. Yes; all the boats were under my command.

Judge Advocate. The object of the question is to know whether you know of the horses being embarked at the Western Cove?

A. It is within my knowledge that some horses were embarked at the Western Cove, but whether they were staff-horses, I cannot say for certain---I went occasionally, from the one to the other.

Q. What is the distance between the two places?

A. Between four and five miles, I think.

Q. How did you go---on horseback?

A. In my boat, a fast-rowing boat; I was stating that some staff-horses were embarked at the Western Cove, where, by the Admiral's orders, I had caused a stage to be erected for that purpose. This operation was considerably delayed after two o'clock in the afternoon, in consequence of the greater part of the boats which had been allotted to that service, being withdrawn, to assist in the embarkation of the infantry; after which, the boats returned to the Western Cove, and the embarkation of the horses continued during the night, and till the following morning at eleven, when all the animals which had arrived at that point for embarkation, were got off without difficulty, or any moles-

tation from the enemy. I believe that is all I have to say to those points to which I have been questioned.

Rear Admiral Sir Benjamin Hallowell. What stores and horses were landed on the 8th?

A. I must refer to my minutes for the numbers exactly.

Judge Advocate. Just state, for form sake, what is the paper you are going to refer to?

A. My minutes made during the siege; it is an extract from my log.

Q. Made by yourself?

A. Yes, it is.

Q. What stores and horses were landed on the 8th?

A. We landed six mortars.

Q. The question is, what stores and horses?

A. I consider guns as a part of military stores.

Rear Admiral Sir Benjamin Hallowell. The question may be put, what horses and ordnance stores?

Judge Advocate. What ordnance stores, artillery, or horses, were landed on the 8th?

A. We landed mortars and ammunition for 200 rounds.

Q. How many mortars did you land?

A. I think six; six were ordered to be landed, and I think they were all landed, and about 260 horses; there were also provisions landed, I believe, but I cannot speak precisely to that fact; there were a variety of things landed, I can only speak as to the guns.

Q. What ammunition was landed on that day?

A. I believe, 200 rounds; there was 200 ordered to be landed, I know, and, I believe, the whole ordered was landed; all necessities belonging to the guns were, I believe, landed.

Q. Do you recollect any other ordnance stores or provisions?

A. I have no doubt there were provisions and forage landed, but I cannot speak particularly to this day, we were landing every day.

Judge Advocate. Unless you have a particular recollection as to this day, you had better not state it, as the question points to a particular day.

A. I cannot speak to provisions accurately, nor to the precise quantity of ammunition on that particular day; we were landing during the whole of the day. It may be proper to state, that the landing that day was attended with difficulty, for it was blowing very fresh; I mean to say, that we were landing all kind of stores every day during the siege, but

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we could not land so much on the 8th, because the weather was against us.

Rear Admiral Sir Benjamin Hallowell. Were any mortars landed on the 10th?

A. Two.

Q. What number of horses and mules were landed between the 3d and the 8th, both days inclusive?

A. About 1670 animals.

Judge Advocate. The question was horses and mules.

A. Yes, about 1670 in the whole, I do not speak to five or six.

Rear Admiral Sir Benjamin Hallowell. When the Quarter Master General, General Donkin, applied to you for boats, on the night of the 11th, to take away his papers, previous to your having received any orders from me, did he give you reason to believe they were going to raise the siege?

A. I should begin by stating, that on the evening of the 11th, about 11 o'clock, I received a message from the Quarter-Master-General, by one of his department, stating, that the General wished to see me directly on shore; I was then on board my ship; this officer likewise desired me—

Judge Advocate. You do not know the name of the officer?

A. No, I do not recollect it; but I believe, Lieutenant Preddy, I am not quite certain; he desired me, in the name of the General, previously to my going on shore, to send a division of five or six boats to the beach, to embark the books and papers of the office. After I had given directions about the boats, I went with this officer to General Donkin's quarters; he there told me that it was the General's determination to raise the siege, observing, that Sir John Murray was very anxious to see the Admiral, who could not at that time be found; this was between 11 and 12 on the night of the 11th, as nearly as I can recollect; he informed me, that it would be necessary to prepare for the embarkation of the army, and recommended me to find out the Admiral to receive his orders on the subject. I went in search of the Admiral, and found him, as he had just returned from the batteries, about 12 o'clock, or thereabouts. I informed him what General Donkin had told me, on which the Admiral desired me to repair on board, and make the requisite disposition of the transports boats, for carrying the General's orders into execution.

Rear Admiral Sir Benjamin Hallowell. I have no further

question to ask this witness, and my only reason for putting this question was, to shew that the order for embarkation was made without my having previous knowledge of it, and that it was so precipitate, that they had not time to communicate it to me before it was acted upon.

Cross-examined by Lieutenant General Sir John Murray.

Q. Could boats at all times land or embark troops, guns, &c. both to, and from the beach, at Tarragona?

A. Certainly not.

Q. Was there not, in general, a surf on this beach, whilst the army under my command lay before that place?

A. There was always a surf, but it did not cause an impediment to the landing or embarking. I beg to correct myself, there was generally a surf, I should not say always, because in the morning it was frequently smooth.

Q. If it did not occasion an absolute impediment, did it not often create very great difficulty?

A. Not often.

Q. In the event of defeat, or other circumstances, rendering an embarkation necessary, could that embarkation be covered by the fire of the ships from the roads?

Judge Advocate. Do you understand the question?

A. I understand the question, but whether I am competent to answer it, is the question.

Judge Advocate. You will state your opinion.

A. Certainly, I think it could; I should wish to correct myself; ships and gun boats could have done so, the ships alone, I think, could not.

Lieutenant-General Sir John Murray. Is not the beach, where the army disembarked, perfectly straight? I will explain to Captain Withers what I mean by the beach, it is from Tarragona to the point of Salou, the northern point of Salou is the point of the bay.

Judge Advocate. I will put the question thus: is not the beach from Tarragona, to the northern point of the bay, perfectly straight?

Rear Admiral Sir Benjamin Hallowell. If the Court will give permission, I have a plan of the bay at the Judge Advocate's Office, which I will send for?

Judge Advocate. I have the plan here, is not the beach from Tarragona, to the northern point of the bay, where the army disembarked, perfectly straight?

A. No, it is not straight, the map will best shew how that is.

The maps and plans were produced, and inspected by the Members of the Court.

Lieutenant-General Sir John Murray. Is it nearly straight?

A. From Tarragona to a certain distance it is nearly so, it is as a curve, at two or three little points it is indented.

Judge Advocate. I believe, yesterday, General Murray applied for an inspection of that plan, do you wish to see it now, Sir John?

Lieutenant-General Sir John Murray. I have not seen it, but it is of no consequence at present.

Rear Admiral Sir Benjamin Hallowell. I have no objection to Sir John Murray seeing it; there is nothing I shall bring before the Court, which I object in the least to Sir John Murray seeing. If I may be allowed to explain that map to the Court, it is not perfectly straight, and that it is that makes it so excellent a place for the shipping; and whenever we had weather that the ships could not ride well in Tarragona bay, we sent them round to Salou bay, where they rode in perfect safety, and in the one or the other, they rode for the whole of the year.

General Sir George Beckwith. Is the depth of the water marked in feet or fathoms?

Rear Admiral Sir Benjamin Hallowell. In fathoms, unless near the shore, where they are in a different colour, those are in feet.

Lieutenant-General Sir John Murray. Could gun boats, or men of war, be placed to flank an embarkation, if the enemy's attack was made on troops drawn up, with their rear to the sea?

A. I really do not feel myself equal to answer that question; it seems to me more a military one, than a naval one.

Q. What number of horses were embarked, from the time you received your first orders from Admiral Hallowell, to the time when you say the embarkation ceased, namely, 11 o'clock on the morning of the 13th?

A. I think, about four hundred were embarked, at the Western Cove.

Q. Cannot you speak from memorandum?

A. No, I cannot, nor I cannot even speak to a hundred; I beg to add, the officer whom I stationed at the Western Cove, to superintend the embarkation of the horses, reported to me, that about four hundred animals were embarked in all.

General Harris. This is not positive evidence.

Judge Advocate. This is not positive evidence, cer-

tainly; and I think not admissible, unless Sir John Murray wishes to have the sort of information he can give.

Lieutenant-General Sir John Murray. I should think the witness should state, only, the information he can give from his own knowledge.

Judge Advocate. Then I will put your answer, that you believe, about four hundred, but that you cannot speak from your own knowledge at all.

A. Just so; I can answer, that all that came there for embarkation were embarked, that I know, of my own knowledge; all were taken off that came down to that point for embarkation, and that is all the answer I am enabled to give.

Lieutenant-General Sir John Murray. You have stated, that you received orders to disembark six mortars, you have said, that you believed all to be landed, but you have since said, that two were landed on the 10th, why were not those two landed on the 8th or the 9th?

A. Two others were landed on the 10th.

Q. You mean to say, there were eight landed altogether.

A. During the siege, I think, there were more.

Rear Admiral Sir Benjamin Hallowell. As I put those questions, may I be allowed to state to the Court, what was my object in putting them.

Judge Advocate. Strictly, the time in which you should put right any matters, should be on re-examination.

Rear Admiral Sir Benjamin Hallowell. I beg pardon, I was not aware of the form.

Lieutenant-General Sir John Murray. Do you mean to say, that after landing the six mortars on the 8th, you received other orders to land two more?

A. Yes, I mean to say that.

Lieutenant-General Sir John Murray. I have no further questions to put.

Judge Advocate. If you have any thing yourself to state, in explanation of any matter, which you think the question has not put to you, you are at liberty to state it.

A. I wish to explain one matter; I wish to observe that the number of horses landed, and guns and stores, were stated to me by the officers' daily reports, that I do not speak from my own knowledge as to the exact number.

President. You mean the officers under your direction.

A. Yes, the officers under me, the agents for transports.

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Judge Advocate. You have already stated, that you knew the fact, that some were landed, but that the number you knew only from the reports of others. Admiral Hallowell, if you have any questions which have arisen out of General Murray's cross examination, you will now put them.

Rear Admiral Sir Benjamin Hallowell. If you will look at this question, and say whether it will be improper now, my object in putting the questions I have put, is to shew that the six mortars being landed on the 8th, will prove that it was not impossible, as Sir John Murray has stated to land on that day: the two mortars landed on the 10th, are, to prove that so far from there being any idea of raising the siege, measures were taken to carry on the siege.

Judge Advocate. There is no objection to the question.

Rear Admiral Sir Benjamin Hallowell. Were the six mortars which were landed on the 8th, all that were landed on that day.

A. Yes they were.

Q. Were the two that were landed on the 10th in consequence of a new requisition made on that day?

A. I believe they were.

Judge Advocate. Do you know yourself, one way or another, whether there was a fresh requisition?

A. I received the Admiral's orders on that day, to land two more mortars.

Judge Advocate. Admiral Hallowell, the Court wish to put a question, to you, as a witness, in consequence of the statement of Captain Withers.

General Harris. Captain Withers has stated, that on the 12th of June, when he reported to you that Sir John Murray had given directions to discontinue the embarkation of the guns and stores, and to embark the troops, that you ordered him to continue embarking the guns and stores till two o'clock; be so good as to inform the Court your reasons for this order.

A. On my first landing, I found that the Quarter-Master General had given orders to stop the embarkation, in the name of the Commander-in-Chief. I do not know that it is necessary to go at this length into it. I will give the reason at once. After I had been to Sir John Murray a little after nine in the morning, and stated to him the orders which had been given by General Donkin, which were to discontinue the embarkation of the guns, he (Sir John

Murray) contradicted the order for spiking the guns. I then desired them to continue the embarkation, and at one o'clock Sir John Murray having again decided upon embarking the troops and leaving his guns, I desired them to continue the embarkation until two o'clock, knowing that the troops could not be down before that period, and meaning to take the advantage of every moment of time I could to save every store possible. With all their exertion, I was sure the troops could not be down till two o'clock.

Captain Walter Bathurst, R. N. sworn.

Examined by Rear Admiral Sir Benjamin Hallowell.

Q. Were you employed in taking off stores and troops from Tarragona, on the 12th of June, when the siege of that place was raising?

A. I was.

Q. State to the Court, the orders you received from Admiral Hallowell on that occasion, and what passed while you were executing those orders.

Rear Admiral Sir Benjamin Hallowell. Captain Bathurst has given me in a statement the same as Captain Withers has done; I suppose he may refer to that.

Judge Advocate. You may take it in your hand; you are not allowed to read that through, not being a statement made upon oath, but you may assist your memory by a reference to that paper; if you are sure that every thing there stated, you can state now on oath, you may state the facts from that paper.

A. On Saturday the 12th of June, the signal having been made early in the morning, to send all boats to embark troops—

Judge Advocate. You state that as your present evidence, that early in the morning that signal was made?

A. Yes, on my waiting on Rear Admiral Hallowell it was desired by him to attend the embarkation of the cavalry, &c. from the wharf on the west side of the Bay of Tarragona, having some flat boats, and the boats of the horse-ships for that purpose. In the forenoon, when a part of the 20th dragoons were embarked, an order came, as I understood, from the Quarter-Master-General, it came to the place of embarkation—

Q. Do you recollect who delivered it to you?

A. One of the Quarter-Master-General's department, I am pretty certain brought it to me, (there was one of them attending there to stop their embarkation) early in the afternoon; I had two messages informing me all the boats

were to be sent to the beach, where the Admiral then was, to assist in embarking the troops from thence.

Q. Did those messages come from the Admiral, or the Quarter-Master General?

A. One of those messages came by boat, if not both.

Q. From whom did you understand them to come?

A. From the Admiral, I understood; and all but a few that were leaky were sent. Some time after (I do not exactly recollect the hour; but, I believe, it was about four o'clock, or near that time) General Donkin came to the wharf where I was, and said, he was come to look for a position or place to put guns on, as the enemy might be expected shortly. That De Caen was very near with 8000 men; indeed, he did not know but he might be at that time entering Tarragona, and did not see why we might not be attacked in an hour or so, and that it was absolutely necessary to send every boat to assist in getting the troops off; and if there was not time to get them off, the horses and mules must be destroyed. Seeing some fishing boats near, he asked what they were, and if they could not assist, and begged they might be sent also, which they were accordingly, as was every boat that I had employed, as I could get to give them orders, that is, as they came in; and after seeing the whole of them away, I went myself, and joined Admiral Hallowell, remaining on the beach until all the troops were embarked, which was completed a little after, or about midnight; I cannot exactly speak to the time, but I know it was about midnight. During the night, our boats (the boats of the Fame) embarked a brigade of artillery from the wharf; and early in the morning of the 13th, I again went to superintend the embarkation of horses, mules, &c. at the wharf on the west side of the bay. About 7 o'clock on the morning of the 13th, Major General Donkin came down, and requested a boat to take him to Salou bay, to the Bristol, a ship that the General was embarked in, which was done by one of the Lieutenant Agents. In the course of the forenoon every horse, mule, and ass, that belonged to the army, was embarked, as was every thing that was brought to the west end of the bay, and the wharf was taken up; but learning from Admiral Hallowell, that he intended it to remain, it was put down again and rebuilt, and no interruption whatever, was offered by the enemy. It is not stated here, but I wish to explain that Admiral Hallowell sent to me a little before noon, and I went to him just when he was getting under weigh, I think to leave the bay. He told me, among other things,

that he wished the wharf to remain. I, therefore, sent orders immediately to the officer commanding there, not to break up the wharf, and if broken up, to rebuild it again. The ship *Fame*, which I commanded, with a part of the transports under my charge, remained in the bay of Tarragona the whole of the 13th of June. I did not perceive that the enemy had got any reinforcements; the picquets or small detachments, which went out of the town to the westward, appeared not to advance far, and were very cautious. On the 14th of June, at half past four A. M. we weighed from the bay, and did not perceive any alterations in the appearance of the enemy's troops about Tarragona.

Q. Were you employed with a party of seamen on the night of the 10th, in taking forward guns and mortars to place in two new batteries which the engineers were then constructing?

A. I was employed taking mortars, but my people were not with the guns, or rather howitzers than mortars. I will explain this. My party took three eight-inch howitzers from the battery, near the point in the Frankalee river, up to the battery on the hill. The people afterwards remained there mounting the howitzers, and I remained with them assisting in mounting the howitzers; part of them were sent to bring up powder.

Q. How long did you remain there?

A. Till a little before dawn of day. The day did not break till I had got best part of the way down; it was probably half an hour, or three quarters of an hour before day light that we came away. The people belonging to my ship were employed in mounting the howitzers, or bringing up powder the whole of the night, till near dawn of day.

Lieut.-Gen. Sir John Murray. If the Admiral's intention in putting these questions as he acknowledged it upon the former occasion, is to prove that the operations of the siege were going on on the 11th, I readily admit it; if it will save the time of the Court, or if he puts it to prove the exertions of the Navy, I am equally ready to admit it, and have done it in my public dispatch.

Rear-Admiral Sir B. Hallowell. It is not to prove the exertions of the Navy; but it is to prove that Sir John Murray continued these preparations to the last moment.

Lieut.-Gen. Sir J. Murray. That I admit most freely.

Rear-Admiral Sir B. Hallowell. I wish to prove it, as my letter states it. Sir John Murray's admission will

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not be received upon the minutes of the Court ; but the proof will be seen by every body.

Lieut.-Gen. Sir J. Murray. , Mr. President. I have made this admission only to save the Admiral trouble, and to prevent a waste of the time of the Court in proving this fact, which I shall myself prove hereafter. I have no doubt the Admiral has the most ample proof of it, for I know the thing existed.

Judge Advocate. Am I to understand, Admiral Hallowell, that you are willing to take this admission, or that you go on with your evidence ?

Rear Admiral Sir B. Hallowell. I have no further questions to put ; but I wish that the questions I have put should remain.

Judge Advocate. Certainly. I have put down in the minutes, that Lieutenant General Murray here observed, " If the Admiral's intention is to prove, that I continued the siege up to the last moment, or to shew the exertions made by the Navy, I am ready to admit both." Admiral Hallowell stated, " that it was not to prove the exertions of the Navy ; but that the operations of the siege were continued up to the very last moment." General Murray then observed, " that I admit most freely."

Rear Admiral Sir B. Hallowell. If it appears upon the minutes that is all I wish. There is another part of my letter, that states the indecision of Sir John Murray, and this is a proof of it. It appears that at half past eight, he gave orders to storm the Fuerte Reale, and that at eleven he raised the siege. It is to prove these facts, that I wish this examination to appear upon the minutes.

Judge Advocate. I believe there was no intention on the part of Sir John Murray, that this evidence should not stand upon the minutes ; but it was to relieve you from the necessity of giving all this in detail ; if, however, you wish to give it in evidence from your own witnesses, that you are at liberty to do.

Rear Admiral, Sir B. Hallowell. I should wish it to stand as proved upon my Case.

Lieut.-Gen. Sir John Murray. I propose to call Captain Bathurst in my defence ; there is, therefore, merely one question I will now put, which relates to the testimony he has given. Did General Donkin state the conversation you related, namely, the necessity of slaughtering the horses, and the immediate advance and situation of the enemy, as his own ideas or mine ?

A. He merely said that in conversation, he did not state that as coming from the Commander-in-Chief, it was merely a conversation between us. General Donkin was on his horse, and in the conversation between us he said that.

Judge Advocate. When I mentioned to you, that you were authorized to call the witness on your Case, that makes him your witness, giving Admiral Hallowell a right to cross-examine and, perhaps, to put some questions which he cannot now.

Lieut.-Gen. Sir John Murray. I understood that perfectly.

Capt. S. Hood Inglefield, R. N. sworn.

Examined by Rear Admiral Sir Benjamin Hallowell.

Q. Were you employed in taking off the troops from Tarragona on the 12th of June, 1813, when the siege of that place was raised?

A. I was.

Q. State to the court the orders you received from me on that occasion, and what passed while you were executing those orders.

Judge Advocate. That paper you have, is in your own hand writing?

A. No, it is not.

Q. By whom is it written?

A. My clerk.

Q. Did you read it yourself at the time?

A. Yes; and it is signed by me.

Judge Advocate. You must now speak from your present recollection; you may refer to that paper to refresh your memory.—You must not state any fact, because it is in that paper, but from your recollection at this time.

A. On the morning of the 12th of June I was directed by Admiral Hallowell, to take 200 seamen from the *Malta* and *Fame*, under my orders, and superintend the embarkation of the heavy guns and other military stores, which we accomplished by about noon. While employed on this service, Captain Withers, the principal agent for transports, came to me, between the hours of 9 and 10, and told me, that he had received orders from General Donkin, the Quarter-Master-General of the army, to desist from sending off any more guns, and that General Donkin had obliged him to lower a gun that was in the slings.

Judge Advocate. This was a report made to you?

A. Yes; he came with an intention to break me off from

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embarking guns, which I was doing on another part of the beach.

Q. Captain Withers brought you this report ?

A. Yes, he did.

Judge Advocate. You will state what you personally know.

A. Shortly after this, General Donkin came to the part of the beach where I was employed, and said that the enemy were coming on in force, and that the boats were wanted to embark troops, and desired that I would order the boats as far from the town to the westward of the Bay as possible, to be ready to embark.—The General then rode away, and I continued embarking the guns, which we accomplished about one P. M. I then went to another part of the beach, with the men under my orders, to assist in embarking other military stores ; but I was prevented from sending any off, being repeatedly informed, by Lieut. Cole and Lieut. Bussell, of the transport service, and several artillery officers, that Sir John Murray had given orders that the boats were to be kept empty to embark troops ; and in consequence, I did not send off many useful stores, which might have been embarked. I think about three in the afternoon the troops began to embark, and the whole of the army, I believe, were off the beach about midnight. I then proceeded with six transport boats, and three of the Malta's, to the engineer depot, nearest the town, and there loaded them with various stores, consisting of scaling ladders, sand bags, trenching tools, platforms principally, &c. I returned on board the Malta, to the best of my recollection, about four o'clock in the morning, without any molestation from the enemy : there is nothing more in my recollection at this moment on this subject.

Rear Admiral Sir Benjamin Hallowell. Have you not seen the whole French army stopped by our gun-boats and a bombvessel, on their march to the Torradembara, by the great road, and obliged to take another direction ?

A. I do recollect it.

Q. You remember having seen that ?

A. I do, about the time of the army being under the command of Lord William Bentinck, not at the time of the siege.

Rear Admiral Sir Benjamin Hallowell. My reason for putting that question is, that bye and bye I shall shew that we had vessels to cover General Copons' army, which was at Torradembara ; and, as Captain Inglefield was here, I wish him to prove that he had seen the whole army stopped by the fleet.

General Nicholls. I should doubt the relevancy of that, as it relates to that which passed at a subsequent period, and not at the time in question.

Gen. Earl Ludlow. It is only to prove its practicability that it might be done, because it was done.

Rear Ad. Sir B. Hallowell. I do not mean to prove that any thing was done during the time Sir John Murray was there.

Judge Advocate. One of the points is, whether it was necessary to embark in this hurry; and Sir John Murray will perhaps say, there was not time to bring off the guns. Admiral Hallowell puts it to shew that ~~at the~~ Torradembara he could stop them.

Rear Ad. Sir B. Hallowell. At the time that Sir John Murray retreated, it was occupied by the Spanish troops.

Judge Advocate. In point of fact, it might have been most correct to have asked, whether the French could have been stopped? and the answer to that probably would have been, yes; for that they were stopped on another occasion.

Rear Ad. Sir B. Hallowell. I will put the question in what manner the Court think best; it will be necessary to my Case, to shew that they might have been stopped; for that the whole army, with Suchet at their head, was stopped there. I had placed gun-boats there, to prevent an attack upon the Spaniards.

Judge Advocate. The question is to stand as it is.

Rear Ad. Sir B. Hallowell. Were any provisions and forage, and of what description, left behind at Taragona?

A. There were a great quantity of both; it was night at the time I was up at the depot of provisions, and perhaps many articles might have escaped my notice; but I saw still on the beach great quantities of corn, flour, and beans, which are given to cattle, a considerable quantity of fire-wood, and of straw.

Q, Do you recollect, about noon of the 14th, the Bristol making a signal, by telegraph, that the enemy's troops were advancing towards Ballaguer; and describing their numbers to be "2000 infantry, cavalry, and believe some cannon?"

A. I do, perfectly.

Judge Advocate. I feel it my duty to submit to the Court, whether the Admiral should not point out how this can be

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applicable to any of the Charges. It was after the siege was raised.

Rear Ad. Sir B. Hallowell. I am directed to substantiate my letter, and that relates to transactions on the 14th of June; this was on the 14th of June.

Judge Advocate. It substantiates your letter, but not that part of it which is in Charge. I do not know whether Sir John Murray objects to it.

Lieut. Gen. Sir John Murray. I come prepared to defend myself against the charges made, but I have no sort of objection to it, as it will save me the trouble of proving it.

Judge Advocate. Every act of indecision, up to the raising of the siege, is evidence, but not any act after the raising of the siege.

Lieut. Gen. Sir John Murray. I have been aware, all along, that these questions, as to my indecision, form no part of the Charge against me.

Judge Advocate. Any relating to the raising of the siege, I think, were evidence; any act as to the raising of the siege, or the moving of guns; or not moving of the guns; but this was after the raising of the siege.

Gen. Nicholls. I think this will appear irregular upon our proceeding.

Judge Advocate. Not if it appears that it was noticed, and that General Murray consented to its being put.

Gen. Harris. If there is any doubt upon it, we should clear the Court.

President. If you have no objection, Sir John Murray, to its standing as evidence, it may be allowed to remain.

Judge Advocate. If the Admiral feels it an object to justify his letter, and if Sir John Murray has no objection, it might stand; but I think it is not applicable to the Charge.

Lieut. Gen. Sir John Murray. I have no objection whatever.

Gen. Nicholls. We are not trying the Admiral; the Admiral's character is not at all implicated in this.

President. It is entirely in the option of Sir John Murray; I apprehend.

Gen. Harris. Sir John Murray states, that he should bring it forward himself if it does not stand.

Lieut. Gen. Sir John Murray. I shall bring forward, that the enemy were in that position on the 14th; but it does not appear from Captain Inglefield's evidence, that he knows it was on the 14th.

A. I know there was such a signal made from the Bristol,

and I believe it was on the 14th, there was only one signal of that sort made while we were on duty.

Judge Advocate. I have felt it my duty to point out the objection.

President. I would put it to Gen. Murray, whether he has any objection to that standing?

Lieut-Gen. Sir John Murray. Not the least, in this instance.

Judge Advocate. You will point out any other question to which you have objection, if it should appear to you to be irregular.

Lieut. Gen. Sir John Murray. I certainly should have no objection to meet any Charges which have been brought against me; but it cannot be supposed that I am prepared, at this moment, to meet Charges of which I never heard. I have prepared myself to meet those before the Court, and trust I shall do it satisfactorily.

Rear Adm. Sir B. Hallowell. Do you recollect on this signal being made, that orders were given by Sir John Murray to stop any further landing, and to embark the horses?

Judge Advocate. Sir John Murray, have you any objection to that question?

Lieut. Gen. Sir John Murray. Not recollecting that circumstance myself, I certainly must object to the question.

Judge Advocate. It appears to me it has no application to any one of the Charges. If any of the Court have any doubt upon that, the Court must be cleared.

Gen. Harris. What date does it refer to.

Judge Advocate. The 14th after the raising of the siege.

Gen. Lord Cha. Fitzroy. There is nothing in the Charge beyond the 12th, we are now upon the third Charge, and there is not a word in that going to the 14th.

President. It arises certainly out of the other questions, the only question then is, whether they should not stand together?

Judge Advocate. If the whole was irregular, so much as Sir John Murray admits, may stand upon the minutes, but if he objects to this then the question is, if they are necessarily connected, whether the whole should not be struck out. Admiral Hallowell very probably tenders this in justification of his own character, but the question is, whether it is evidence against Sir John Murray.

Gen. Sir Geo. Beckwith. This is a second disembarkation clearly.

President. This comes very near the time of adjourning, and perhaps it may be better to clear the Court, and determine this point, and meet again to-morrow morning.

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Judge Advocate. Perhaps it may be better first, to request the Admiral to state to the court, on what ground he supports this question.

Rear Ad. Sir B. Hallowell. My letter, which has been read, is dated the 14th of June. I am called upon by the Secretary of State to prove the contents of that letter, and I trust I shall have an opportunity of doing so. If the Court think I have not a right to do that, I must submit to their opinion.

Judge Advocate. That is all you submit to the Court in support of the question?

Rear Ad. Sir B. Hallowell. That is my only reason for wishing to prove the fact.

Lieut. Gen. Sir John Murray. I beg, Mr. President, that the Court will understand that I have no objection to answer any Charges whatever that may be preferred against me, but I only object to being called upon at this moment to disprove facts, without any notice at all upon the subject. For a long time the Admiral has had an opportunity of framing Charges against me if he chose, and the question of indecision might have been brought before the Court by him if he had thought fit. I come to answer the Charges made, and cannot be expected now to answer any others.

Rear Ad. Sir B. Hallowell. Mr. President, I have never thought of making any new Charge, or producing any new matter since that letter was published; immediately on the receipt of that letter, it was transmitted by Lord Bathurst to Sir John Murray; he has been in possession of it therefore 18 months, and I should be ashamed to introduce any new matter after that.

Lieut. Gen. Sir John Murray. I do not accuse Admiral Hallowell of introducing any new matter, but I feel it necessary to explain, that, at the same time that I received a copy of that letter, I received a copy of the Charges that I was to answer.

Gen. Lord Cha. Fitzroy. And this Charge does not go beyond the 12th.

Judge Advocate. The Court wish that the room should be cleared now, and as it is very near 3 o'clock, the Court will not be re-opened to day, but the decision upon this point will be announced at the meeting of the Court to-morrow morning.

Adjourned to to-morrow morning, ten o'clock.

THIRD DAY.

Wednesday, 18th January, 1815.

The Court met pursuant to adjournment.

Captain Samuel Hood Inglefield again called in.

Judge Advocate. I have now to state the opinion of the Court upon two points, which have been discussed by the Court. The first is, as to the question put last but one by Admiral Sir Benjamin Hallowell; the question was this: "Do you recollect about noon of the 14th the Bristol making the signal by telegraph, that the enemy's troops were advancing towards Ballaguer, and describing, in the same manner, their numbers to be 2000 infantry, cavalry, and believe some cannon?" together with the answer given by the witness thereto. It is the opinion of the Court, that this question and answer are to stand upon their minutes as regular and legal, independent of any consent given by Lieutenant-General Murray, on the ground of its being evidence, shewing, to a certain degree, though imperfectly, the number of the enemy advancing in that direction; and, therefore, applicable to one of the questions to be tried on the third Charge, namely, as to the necessity of having embarked in the manner stated by Admiral Hallowell; but, as to the last question put by Sir Benjamin Hallowell, namely, "Do you recollect, on the signal being made, that orders were given by Sir John Murray to stop any further landing, and to embark the horses;" as well as with regard to two other questions, submitted by Admiral Hallowell to the Deputy Judge Advocate, namely, "Were orders given in consequence of that signal to land the troops again?" and "do you recollect orders being given again, to stop the landing on that day (the 14th)?" The Court is of opinion, those three questions should not be put to the witness, on the ground that they have a tendency only to shew acts of indecision in General Murray, which are not, in any way, applicable to the Charges that by the warrant the Court is authorised to try, and against which alone Sir John Murray can be supposed to have come here prepared to defend himself. The order alluded to by the Admiral, to be prepared to prove the contents of his letter, upon a part of

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which the third Charge is founded, cannot authorize this Court to receive evidence against Sir John Murray, which is not applicable to that Charge, as it stands; and must have been intended only as a direction to him to prove all such parts of his letter, as should be necessary to substantiate that Charge.

The Court hopes that every object of Sir Benjamin Hallowell will be answered by his having tendered those questions, and shewn his readiness to go into evidence to support the whole of his letter; but, even if Sir John Murray should consent to admit such an enquiry, it is the duty of the Court to interfere and prevent it; and, at the same time, it is to be observed, that the Admiral must have been aware that these supposed acts of indecision, subsequent to the said re-embarkation and the loss of the guns, will not make a part of the Charges against General Murray; and, that it was in his power, if he thought fit, to have requested, in consequence, to have presented a Charge himself, for the purpose of enabling him to go into evidence upon that subject.

Rear Admiral Sir Benjamin Hallowell. My letter is produced before the Court, and lies as a document before the Court now. I was called upon by the Secretary of State to prove every thing I had stated in that letter, I come here prepared to do it; and, if I am prevented doing it, I shall have to regret it very much; for the indecisions of Sir John Murray at Ballaguer, were as notorious as they were at Tarragona. Sir John Murray was in possession, and I felt it my duty to support him, but I am prevented —

President. Admiral Hallowell, as the Court have determined that it would be illegal to enter upon that subject, I must request that you would forbear saying any thing more upon it.

Rear Admiral Sir Benjamin Hallowell. Then, Sir, I submit most respectfully to their decision.

Judge Advocate. Admiral Hallowell, I wish to ask you one question; do you mean to call General Donkin as a witness?

Rear Admiral Sir Benjamin Hallowell. No, Sir, I do not.

Judge Advocate. Sir John Murray, do you call him?

Lieut.-Gen. Sir John Murray. I shall certainly call him.

Judge Advocate. I ask this question merely in consequence of a letter I have received from General Donkin,

saying, that he conceives from what he supposes (of course not accurately) to have passed here, that his conduct has been misrepresented—

Lieut.-Gen. The Hon. Sir Edward Paget. What have we to do with that ?

Judge Advocate. As he will be called as a witness, he will have an opportunity of setting any thing right he conceives to have been misapprehended.

President. It was thought proper to know, whether he was to be called by either party, and, it being ascertained that he will be a witness, makes it unnecessary to say any thing more upon the matter.

Judge Advocate. Though I am aware there may be reasons why Admiral Hallowell will not call General Donkin, yet there may be some reasons why he should call him, having stated orders by General Donkin, as coming from Sir John Murray, he should regularly call General Donkin to prove, whether they came from Sir John Murray or not. All that I wish to point out, was, that he barely brings home these facts to Sir John Murray, unless he proves they came from Sir John Murray.

Rear Admiral Sir Benjamin Hallowell. There is one of my witnesses, who will prove that the orders were delivered to him by General Donkin, in the name of the Commander-in-Chief. Do you allude to the order for spiking the guns ?

Judge Advocate. Perhaps I had better not enter into it ?

Rear Admiral Sir B. Hallowell. The orders I have alluded to, will be proved by evidence.

Judge Advocate. Admiral Hallowell, the Court will now proceed with the witness.

Rear Admiral Sir B. Hallowell. I have no further questions to ask Captain Inglefield, as he is not to answer to the facts alluded to by me.

Judge Advocate. There is one question contained in your paper, to which the Court do not object, do you wish that to be put ?

Rear Admiral Sir B. Hallowell. If you please.

Judge Advocate. It is this. Do you recollect the Thames, Ganymede, and Goshawk, opening their fire, and the signal being made that the enemy had retired ?

A. I do. I remember their opening their fire, which continued some time, and when it ceased, they made a signal that the enemy had retired. I wish to mention, that on referring to my log since yesterday, I find that a fact as to which I mentioned doubtfully yesterday, whether it

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was on the 14th; I am enabled to state with certainty, that it was on the 14th.

Cross-examined by Lieut.-Gen. Sir John Murray.

Q. Do you know in what direction the enemy retired; Whether they fell back to the rear, or simply inclined behind the hills out of reach of the fire of the ships?

A. That I understand as alluding to the last question. I understood they retired to the westward. I believe the signal was made to that effect.

Q. You have stated yesterday, that about 10 o'clock in the forenoon of the 12th, while you were employed at the beach in embarking the heavy guns and other military stores, General Donkin directed you to order the boats as far from the town, to the westward of the bay as possible, in order to embark the troops? Why did you not comply with General Donkin's desire?

A. Because I had received my orders from Admiral Hallowell, to embark the guns and other stores; and judged that the order ought to have come from him, particularly as there were not any troops then ready to embark, waiting for embarkation.

Q. The first part of this is only detailing what you are supposed to have said. You have stated yesterday, that after completing the embarkation of the heavy guns at twelve o'clock, you went to another part of the beach, in order to assist in embarking other military stores; but that you were prevented by Lieutenant Cole and Lieutenant Bussell, of the Transport service, and by several officers of Artillery, that it was Sir John Murray's desire that the boats should be kept empty to embark the troops. Why, after declining to comply with the desire of the Quarter-Master-General of the Army, did you listen to the suggestions of two Lieutenants of the Transport service, and some unnamed Artillery officers?

A. Because some considerable time had elapsed between that time and the period when General Donkin had been to me, and I had then heard that Sir John Murray had positively determined upon raising the siege, and the batteries being at that time burning, which left it beyond a doubt, in my mind, of the serious intention of the army being embarked.

Q. At what hour was this?

A. To the best of my recollection, about one P. M., on the 12th.

Q. Did you doubt the truth of General Donkin's information, and judge from accidental circumstances, in

preference to the deliberate and official desire of the Quarter-Master-General of the Army?

A. There had been so many various reports, and having also understood from Admiral Hallowell on other occasions, that Sir John Murray had had it in contemplation to embark the heavy guns, particularly on the 8th, and leave the place, which had not been carried into effect, I conceived that perhaps this was no other than similar reports I had heard before; and General Donkin did not tell me that it was the Commander of the Forces directions to have the boats ordered to the upper part of the beach, but spoke merely from himself.

Q. Was not the actual embarkation then going on?

A. No, the embarkation of stores only; no troops.

Q. Were not stores and guns being embarked?

A. Yes, this alludes to the time when General Donkin came to me, if I understand the question.

Q. At the period when you did not put the orders given by General Donkin into execution?

A. So I understand.

Q. After the conversation which you have stated yourself to have had with General Donkin, did you receive any orders from the Admiral to continue the embarkation of stores till two o'clock; or till further orders?

A. I did, after I repaired to the other part of the beach where the Artillery stores were embarking.

Judge Advocate. The President wishes me to take this opportunity of stating to the witnesses, that though dismissed by the parties, they must remain at Winchester, in case the Court should wish to propose any questions to them.

Lieut.-Gen. Sir John Murray. How do you reconcile what you have just said, with the evidence you gave yesterday, which was this, "At one P. M. I went to another part of the beach with the men under my command, to assist in embarking other military stores, but I was prevented from sending any off, being repeatedly informed by Lieutenant Cole, and another Lieutenant of the Transport service, and by several Artillery officers, that Sir John Murray had given orders that the boats were to be kept empty to embark troops, and, in consequence, I did not send off many useful stores which might have been embarked."

A. When I came to that part of the beach, there were several boats loaded, and were going off, some of which I obliged to take in more stores than they had already in,

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but did not load any others which were then empty on the beach, owing to the orders which had been sent me by Sir John Murray.

Q. You have stated, that you remember to have seen the whole French army stopped by the fire of our gun-boats, and a bomb, on the great road by Torradembara and Altufalla, and obliged to take another direction subsequent to the siege of Tarragona? Be so good as to state, to the best of your recollection, the exact period of such occurrence.

A. It was the beginning of August, but I do not recollect the day of the month.

Judge Advocate. In the same year.

A. Yes.

Lieut. Gen. Sir John Murray. Was it at the time that Lord William Bentinck was before Tarragona?

A. Yes.

Q. How many roads practicable for troops, are there between Villa Franca and Tarragona, out of the reach of the fire of the gun-boats?

A. That is a question I do not feel myself competent to answer.

Judge Advocate. If you know of any you will mention them.

A. I know of one out of the reach of our gun-boats. I have been another road, but I have not examined the road at all.

Lieutenant General Sir John Murray. Did not the enemy reach Tarragona, and destroy the works, notwithstanding the fire of the gun boats, and the bomb at that period?

A. They did; the army turned off in another direction, and I believe did reach Tarragona, and destroy the works sometime afterwards.

✓ *President.* Cannot you recollect pretty nearly the time?

A. I believe it was in September, they were a considerable time undermining and destroying.

Lieutenant General Sir John Murray. It appears from this evidence that at the time the enemy were advancing, as Admiral Hallowell has said, with Marshal Suchet at their head, the gun boats actually prevented the arrival of the enemy at Tarragona; it is a circumstance perfectly well known, that the only time Marshal Suchet advanced to Tarragona, was when Lord William Bentinck was there, and I only wished to shew that there were other roads by which they might approach, and that they actually did approach, and did destroy the works.

Judge Advocate. Cannot you fix the time how soon they reached Tarragona, after they turned out of the road?

A. It was sometime afterwards.

Q. You cannot say within a day how long it was after they turned out of the road, that they reached Tarragona?

A. I believe they reached it the same day.

Lieutenant General Sir John Murray. I only wish to put Captain Inglefield in mind, that by Lord William Bentinck's dispatch, and by Marshal Suchet's dispatch, we know it was in August that this happened, it is only a mistake of the month.

General Harris. The witness does not speak positively as to the time.

Rear Admiral Sir Benjamin Hallowell. Mr. President, may I be allowed to ask the opinion of the court, whether I may freshen Captain Inglefield's recollection respecting the time the army was marching, if he will refer to his log. If I am incorrect in any thing I am saying, I will submit to the Court—

Judge Advocate. The only question is, as to the time of doing so; it might be more regular, after Sir John Murray had closed his cross examination.

Rear Admiral Sir Benjamin Hallowell. I beg pardon, I will wait till then.

Lieut.-Gen. Sir John Murray. I shall have occasion to call Captain Inglefield as a witness in my defence, I will not trouble him with any further questions now.

Judge Advocate. You have an opportunity now, Admiral Hallowell, of asking any questions in explanation, or when Sir John Murray calls him,

Rear Admiral Sir Benjamin Hallowell. I will put a few questions upon these points while fresh in the recollection of the Court.

Re-examined by Rear Admiral Sir Benjamin Hallowell.

Q. If you had ordered the boats to the westward, as desired by the Quarter-Master General, must you not have left off embarking the guns which were then lying on the beach, opposite the boats?

A. Yes.

Q. When you moved to another part of the beach, to embark military and other stores, were all the guns embarked?

A. They were, at that time; those that were lying on the beach.

Q. I mean all that were brought down for embarkation?

A. Yes, all those that were on the beach, were embarked

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at that time. I speak now to the best of my recollection. As it is so long ago, it is impossible to say with precise certainty.

Gen. Harris. If you have any notes, you may refer to them.

Rear Ad. Sir B. Hallowell. As Capt. Inglefield speaks of works being destroyed, I think he alludes to the works of the Town, and, therefore, I wish to put this question to him, Had we, at any time, any works erected before Tarragona, during the time of Lord W. Bentinck's command?

Judge Advocate. This is another enquiry: the only object of the question was to show, that if they had been stopped at Tarragona, they might have gone by another road the same day: there is nothing in the cross-examination in reference to other works erected by Lord W. Bentinck; it is quite new matter.

Lieut. Gen. Sir John Murray. My only object was, as it had been so broadly asserted, that a few gun boats had stopped the whole French army, to show that they did not, nor could not do it; for that the enemy went by another road.

Rear Ad. Sir B. Hallowell. I have not a doubt that there are officers in the army here, that will bear witness to it; for Colonel Adam commanded at Altufalla. I can prove, by several of the officers of the army, that we stopped them, and drove them back.

(The Maps and Plans on the Table were inspected by the Court).

Rear Ad. Sir B. Hallowell. That question is just to bring to Capt. Inglefield's recollection, that it could not be done in one day. Do you recollect, when we went to Torradembara in the Malta, at the period alluded to, of the gun boats stopping the march of Marshal Suchet, that the enemy retired that night to Cressels or Roda, and that the following day we moved in the ship to the Bridge near Tarragona, and that it was on the following Monday morning, when we were at breakfast, that the enemy appeared on the hills above Tarragona, our troops having retired at day light?

A. Yes, I recollect it perfectly; and except that I do not know where the enemy retired to, the whole of the question is correct.

President. The day of their first being seen does not appear.

Rear Ad. Sir B. Hallowell. I have not got my log with me, to prove the day of the month, but it will prove the distance of time.

President. This question speaks particularly to a Monday, without mentioning what was the day of the week when it first happened.

Rear Ad. Sir B. Hallowell. That must have been Saturday.

A. I do not know exactly that the night the enemy retired was a Saturday, but there was one day between their retiring and their appearing upon the hills above Tarragona.

Q. Did the enemy retire in order to get from our fire, and was he not prevented from advancing against Col. Adam, who commanded the advance at Altufalla.

A. It appeared to me that he did retire owing to our fire, which certainly prevented him from approaching Colonel Adam at that time.

Rear Ad. Sir B. Hallowell. It will save another question if he states 'the fire of the gun-boats,' for our fire may be mistaken for the fire of the Malta.

A. Yes; I mean the fire of the gun-boats, and of the Malta's boats.

Q. Are you now satisfied that the enemy did not arrive at Tarragona on the same day that they were stopped at Torradembara?

A. I have not said it was the same day---I have stated that they might have arrived at Tarragona on the same day.

Judge Advocate. He says, "I do not know exactly that the night the enemy retired was a Saturday; but there was one day between their retiring and their appearing upon the hills above Tarragona," which seems to answer this question.

Rear Ad. Sir B. Hallowell. I am quite satisfied; I have no further questions to put to this witness.

Judge Advocate. The Court will permit me to put one question that appears necessary to clear up one part of the evidence. You have stated in one part of your evidence, that General Donkin did not tell you that it was the Commander of the Fortes direction to have the boats ordered to the upper part of the beach, but spoke merely as from himself, I wish to understand whether you meant that General Donkin said it only without saying that it was from the Commander-in-Chief or not, or whether he said expressly, that it was not from the Commander-in-Chief?

A. No; he did not say it was not from him---he came up to me, and expressed his wish that I would direct all the boats up to the upper part of the beach; as far from the town as possible, to facilitate the embarkation of the troops, for that the enemy were near at hand in great force. When

I went to the further part of the beach, a great many of the officers told me that it was Sir John Murray's orders that the boats should be kept empty to receive the troops, and that no more stores should be sent off.

Lieutenant James Cole, R. N. sworn.

Examined by Rear Admiral Sir Benjamin Hallowell.

Q. Were you an agent of transports at Tarragona, in June 1813?

A. Yes.

Q. Were you employed under Captain Withers, the principal agent to embark guns and stores when the siege was raised on the 12th of June?

A. Yes.

Q. At what time did you come on shore to superintend the embarkation of guns and stores?

A. At half past five in the morning of the day the siege was raised, about that time; I cannot speak to half an hour or an hour on the 12th.

Q. Did you receive any orders from the Quarter-Master-General about nine, A. M., and what were those orders?

A. Yes; about that time, Major-General Donkin came to that part of the beach where I was, and desired I would desist from embarking the guns and stores, and keep the boats in perfect readiness for the reception of our troops, who would be obliged to retreat in consequence of the enemy being within about two hours and a half's march of us. Just as he had mentioned this to me, Captain Withers, the principal agent, came up to us, when General Donkin said---Oh! here is Captain Withers! and immediately addressed him on the same subject; and on Captain Withers not giving him an immediate answer, Major-General Donkin said he would go and fetch the Commander-in-Chief, or get the Commander-in-Chief's orders, if that was necessary, or to that effect. We proceeded on in embarking the guns according to orders from Admiral Hallowell---about noon the whole of them were off that part of the beach where I was.

Q. Do you know if any stores were landed on the 9th?

A. Yes; we landed some ammunition on the 9th.

Q. State your proceedings subsequent to one o'clock on the 12th; what took place under your own observation?

A. Nothing particular; but we continued embarking stores in the forenoon.

Rear Ad. Sir B. Hallowell. I wish you to state every thing

that passed under your own observation till the evening--- until every thing was embarked.

A. I have a memorandum---

Judge Advocate. Was that made at the time?

A. Not at the time, but very soon afterwards.

Q. Is it your own writing?

A. No; it is copied from my own writing; I can swear it is correct.

Judge Advocate. You will understand that you are to swear from your present recollection, independent of that paper---you may refresh your memory by a reference to that paper.

(The Witness referred to his Memorandum.)

A. From about noon, till about two, P. M., there was nothing done of any consequence, the boats were kept for the reception of troops; we, to the best of my recollection, commenced embarking about two---I think it was about one o'clock on the following morning, that we finished the embarkation---that the Spanish and British troops were all embarked.

Cross-examined by Lieutenant-General Sir John Murray.

Q. Did General Donkin assert positively, that the enemy was within two hours and a half's march on the morning of the 12th?

A. I have before stated so---to the best of my recollection, he did.

Q. Did you not receive orders from Admiral Hallowell, or from Captain Withers, to continue the embarkation of the stores, after the directions of General Donkin to desist?

A. Yes; either from Admiral Hallowell, or from Captain Withers, I am not certain which.

Rear Ad. Sir B. Hallowell. As the witness has not spoken positively as to whether he received the orders from me, if he refers to his paper, perhaps he will be able to state with certainty that fact?

A. Yes; I have here asserted that I received that order from Rear Admiral Hallowell.

Judge Advocate. Does that bring to your recollection that you received that order from the Admiral?

A. Yes; to the best of my recollection, it was so.

Lieutenant John Bowie, R. N. sworn.

Rear Ad. Sir B. Hallowell. May I be allowed to put this paper into his hand, to refresh his memory; it is a paper of his own, signed like the others?

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Judge Advocate. You will refresh your memory by that--- but you will speak from your present recollection.

Examined by Rear Admiral Sir Benjamin Hallowell.

Q. What vessel did you command in Tarragona Bay in June 1813?

A. Gun-boat, No. 23.

Q. At what time did you anchor in Tarragona Bay?

A. About four o'clock in the afternoon of the 2d of June.

Q. What orders did you receive from Admiral Hallowell on joining?

A. I received orders to go in shore to cover the landing of the troops.

Q. State your subsequent proceedings?

A. I took the chief of the staff, Cabanes, on board the Admiral's ship the Malta the same evening. At ten, the same night, I went and lay off the Mole-head, to prevent any boats going in, or coming out, and returned again at day-light the next morning, the 3d, and anchored across the beach, and covered the landing of the troops. On the evening of the 3d, again I returned off the Mole-head, and remained on that service, keeping up a fire against the town and the works till the 12th, when I was ordered to Torradembara, to cover the right wing of General Copons' army. I sailed at ten, on the 12th, A. M. and arrived at Torradembara about three, P. M. on the same day, off Torradembara, when I went on shore, and saw Colonel Manso, who enquired if the troops were withdrawing from Tarragona. I replied, that I knew not, if they were; he said he had certain information that they were, and asked me if I had any idea of the cause of it; he informed me that he believed the enemy were ---

Judge Advocate. This is not strictly evidence---it is the report of another person very remote.

A. He said that he had a letter from Villa Franca, informing him that the enemy, four or five thousand strong, with four guns and one howitzer, were in that town at four o'clock the same morning; and during the time I was with him, there arrived a peasant with information that the enemy was in the same position at noon on that day---it was at five or six o'clock when the Colonel received this information.

President. He told you he received this information from other quarters?

A. Yes.

Judge Advocate. Did you see the countryman yourself?

A. I saw the peasant come in.

Gen. Harris. There is no other source of information.

Judge Advocate. The fact is evidence so far, that the countryman came in, and that he told that story---what truth there was in it is a question for consideration.

President. I should conceive the fact, that the countryman came in and made that report, is certainly evidence.

Judge Advocate. While you were there, a Spanish peasant came in, and you heard him state this?

A. I saw him come in, and the Colonel stated that to be the effect of his message.

Gen. Sir Geo. Beckwith. Did you understand him as he stated it?

A. Not perfectly.

Judge Advocate. You understood it in his presence?

A. Yes; at sun-set, Colonel Manso marched from Torradembara, and I returned to my vessel.

Q. Of course you do not know where he marched to?

A. No; I do not. On the 13th, I went on shore at Torradembara again for information, about nine in the morning, and I found all was quiet, and no troops were in the place. At ten I was re-called by the Admiral, and I weighed, and rejoined him.

Rear Ad. Sir B. Hallowell. Was your vessel placed in a situation to prevent the enemy coming by the high-road from Villa Franca to Tarragona, at the time we were raising the siege?

A. Yes.

Q. Were you not in immediate communication with me by signal, so that I could have been informed instantly if you had seen the enemy approaching?

A. Yes.

Rear Ad. Sir B. Hallowell. Has Lieutenant Bowie stated to what place Colonel Manso fell back when he left Torradembara?

Judge Advocate. He states that he did not know to what place.

A. He marched on the Altufalla road, but I do not know to what place he marched.

Cross-examined by Lieutenant General Sir John Murray.

Q. You have stated a conversation with Colonel Manso as to the strength and position of the enemy, in what language was that conversation carried on?

Judge Advocate. That conversation with Colonel Manso was not admitted, only the fact, that there was a communication by a countryman.

Lieut. Gen. Sir John Murray. He evidently had a con-

versation with Colonel Manso, for Colonel Manso related to him that we were raising the siege.

Judge Advocate. The question here refers to the strength and position of the enemy.

Lieut. Gen. Sir John Murray. That may be omitted.

Judge Advocate. You have stated a conversation with Colonel Manso; in what language was that conversation carried on?

A. In Spanish.

Q. Have you studied the Spanish language?

A. Yes.

Q. Do you comprehend it sufficiently to understand the report made by a peasant, respecting the number of guns and men, and the position of the armies?

A. I made my enquiries of the peasant till I made myself perfectly understood, and understood him, with Colonel Manso's assistance, and my own enquiries.

Judge Advocate. I have taken it; I made such enquiries of the peasant, with the assistance of Colonel Manso, that I satisfied myself.

Lieut. Gen. Sir John Murray. It does not appear to me, that that is perfectly an answer: it appears that great part of the communication must have come from Colonel Manso, which is not strictly evidence.

President. The question is, whether he had sufficient knowledge of the Spanish language to be able, with the assistance of a third person, to understand thoroughly what the peasant said?

A. I did not exactly understand every word he said, but I collected the effect of it.

President. Do you think your knowledge of the Spanish language is sufficient to enable you to say, that you understood what that man stated?

Lieut. Gen. Sir John Murray. Did the peasant make his report in the Castilian or the Catalan dialect?

A. In the Catalan dialect, partly; it was a mixture of both.

Q. Did you then understand the Catalan dialect, which is so different from the common Spanish, that our best instructed officers very frequently could not understand it?

A. I understood it sufficiently to make enquiries, and to make out what the peasant said.

Q. How came you then to require Colonel Manso's interpretation?

A. Because there were several words of the Catalan,

which he explained to me in the Castilian, and the conversation was addressed to Colonel Manso.

Lieut. Gen. Sir John Murray. I shall have occasion to call Lieutenant Bowie in the course of my defence, therefore I will not put any further questions now.

Re-examined by Rear Admiral Sir B. Hallowell.

Q. Although you may not understand the Spanish language sufficiently to explain positions of armies, and answer military questions, do you know it sufficiently to be certain, that the answer given by the peasant stated the enemy to be at Villa Franca at noon on the 12th?

Judge Advocate. I believe the Court are satisfied of the fact, but the question may be put.

A. Yes, that was what I understood him to say.

Captain John Stoddart, R. N. sworn.

Examined by Rear Admiral Sir Benjamin Hallowell.

Q. What ship did you command on the 12th of June, 1813?

A. The Strombolo bomb-ship.

Rear Ad. Sir B. Hallowell. May I be permitted to give the witness his report to refer to?

Judge Advocate. When was that made—at the time?

A. About the time.

Lieut. Gen. Sir John Murray. May I beg to ask, at what time the statement was made?

Judge Advocate. It is dated the 5th of April.

Lieut. Gen. Sir John Murray. That was nine months afterwards.

Judge Advocate. Was it made at the time it bears date?

A. Yes, it was.

Q. Was it the first you made, or is it a copy from any other?

A. It is the first I made.

Lieut. Gen. Porter. Is it taken from the log?

A. The dates are taken from my log.

Rear Ad. Sir B. Hallowell. Is that report made from a recollection of the facts at the time?

A. I can speak from my memory to the facts.

Judge Advocate. I should think he had better go on without this paper.

Rear Ad. Sir B. Hallowell. In my official letter you will find, I make the statement contained in that paper, therefore the facts must be pretty strongly established in his recollection, I should think, but I will ask the questions from it, it was merely to save the time of the Court.

President. The question to be put to the witness, may bring the matter to his recollection, but I should think it not regular to refer to it.

Lieut. Gen. Sir John Murray. I have no objection to the witness referring to it.

Rear Ad. Sir B. Hallowell. My only object is to save time, the statement was made to me at the time. I have mentioned the facts of this information in my official letter, before the Court; this is a copy from that official statement; but as it happens to be copied on the 5th of April, I apprehend that is the only objection to it.

Judge Advocate. I asked him whether it was a copy of another paper and he said it was not.

President. The Admiral stated these facts in his official letter, but it does not follow necessarily, that the witness had those facts all then in his recollection.

Lieut. Gen. Sir John Murray. I have not the least objection to the witness referring to the paper.

Rear Ad. Sir B. Hallowell. Were you sent by me on the forenoon of the 12th, to anchor at Torradembara?

A. Yes.

Q. State to the Court the orders you received from me, and your proceedings in consequence of those orders.

A. I received orders from Ad. Hallowell to take a position at Torradembara to cover the road, should the enemy advance from the Eastward, and to gain what information I could respecting the enemy. I went on shore for that purpose, at the village of Torradembara, where I found Col. Manoso; he had at the time, or a short time before (an hour I think) received orders to leave his position.

Judge Advocate. That fact, of course, the witness cannot know, he told you that, I suppose?

A. Yes, he informed me that he had at that time received orders to leave his position; he asked me if the troops were about to embark from before Tarragona. I told him I believed they were; he expressed great regret and astonishment at this. I asked him if he could give any information of the enemy to the eastward, and if they were likely to advance; he told me he believed they were not about to advance, he said "I do not think they will advance."

Judge Advocate. This is subject to the same objection as I before stated.

Gen. Harris. It is very loose evidence, certainly.

Judge Advocate. You saw no enemy?

A. No, I saw no enemy.

Judge Advocate. The opinion of Col. Manso, that they would not advance, cannot be evidence.

A. I saw no enemy.

Gen. Harris. You heard of none?

A. I heard where they were; not from Col. Manso, but from another person; I am now merely stating Col. Manso's opinion; it was the next day that I received information where they were.

President. If Colonel Manso was here, we might hear his opinion and the grounds of it.

A. The next morning I went on shore for the purpose of gaining information. I met with a peasant, who told me he had left Villa Franca at half past seven that morning:—This was about 10 or 11 that I saw him; he informed me that the French were in number there, about 5000, with two mounted guns, two field pieces, and one howitzer; that was all the information I gained at that time.—I asked him if he had heard, or if he knew, that the French were advancing; and he likewise said no, but that was merely his opinion, the same as Col. Manso's. I left that position immediately afterwards, and joined Admiral Hallowell, and gave him that information.

Judge Advocate. The only fact is, that the peasant left the French at Villa Franca; he could not know, of course, where they were going.

Lieut. Gen. Sir John Murray. In Adm. Hallowell's statement, it is expressly sent home, that he saw a peasant, by whom he was informed, that the French had not then left the place, nor seemed to have any immediate intention of leaving it. This is the Admiral's statement, and I think I heard Capt. Stoddart say, that he left them stationary.

A. I did not make use of that word.

Judge Advocate. The witness states, that a peasant informed him that he did not think they were likely to move, but that was not conceived to be evidence.

Lieut. Gen. Sir John Murray. You understood that the peasant left the French at Villa Franca at seven o'clock that morning?

A. Yes; that is the whole of the information I gained; I left that position, and returned to the Admiral, and made my report.

Rear Ad, Sir B. Hallowell. Was the Strombolo placed in a situation to prevent an Enemy's coming by the high road from Villa Franca to Tarragona?

A. There was a road that leads along the Beach, a broad road; whether that is called the high road, I cannot say,

Rear Adm. Sir B. Hallowell. That is the road I mean.

A. That road we could have well protected.

Q. Were you in immediate communication with Adm. Hallowell by signal, so as to have given him immediate information if the Enemy had appeared?

A. I was.

Rear Adm. Sir B. Hallowell. I have no further questions to put, but I would state to the Court, that all the information we received, while there, was in the same way as that alluded to by Capt. Stoddart. Col. Manso received his information from peasants, and communicated to the Quarter Master General. I sent Captain Stoddart to him, and he received his information in the same manner.—I am sorry that evidence is not received here; if it is refused in my instance, I hope it may be in other instances.

Lieut. Gen. Sir John Murray. I beg I may not be included in that, being the way in which the intelligence was received, when I come to my defence. I shall lay my sources of information before the Court, and they will then see what it is.

Judge Advocate. You expect the same measure to yourself as to the prosecutor?

President. It may be proper to state, that though that is good information for an officer to act upon, it is not equally good in evidence before a Court Martial, it is perfectly good information for an officer to act upon, as you doubtless did, and to form your opinion upon, but what is good evidence in that respect, is not good evidence to be admitted before a Court; I take that distinction, and the Court having so determined it, it is my duty to state it to you.

Rear Ad. Sir B. Hallowell. I feel it my duty to make this statement; and, having done so, I am perfectly satisfied with whatever the Court decides upon it. I have no other question to ask Captain Stoddart.

Cross-examined by Lieut. Gen. Sir John Murray.

Q. Who was the peasant who gave you the information you have stated? Was he a stranger to you, or had you ever seen him before?

A. Perfect stranger.

Q. Did the Alcalde, or any other respectable person of the Village, answer to you that he was a person to be relied upon, or even that he was not a Spy of the enemy?

A. I had no conversation of that sort, respecting the peasant, with any one.

Gen. Harris. The enemy certainly did not come. I do not know of what importance these questions are.

Lieut. Gen. Sir John Murray. You will observe, Sir, this is a very important point, because, as this happens to be the only instance, in Adm. Hallowell's letter, upon which these Charges are stated, where he attempts to state the number of the enemy, it becomes me to remark upon what very slight ground, or rather, I should say false ground, this Charge is brought forward.

Gen. Harris. As the enemy did not come, it appears to me to be of little importance.

Rear Adm. Sir B. Hallowell. I shall prove to the Court, by the next evidence I call, that I have other proof than that Capt. Stoddart has now stated.

Lieut. Gen. Sir John Murray. Adm. Hallowell, I beg your pardon. I did not mean to say you had no other proof, but only that there was no other instance in these letters. *(To the witness)* In what language did this peasant convey to you his intelligence?

A. In the Spanish language,

Q. Castilian or Catalan?

A. Catalan.

Judge Advocate. You are aware of the difference?

A. Yes, I am aware of the difference, and, if any questions are put to me upon that point, I will answer to them.

Lieut.-Gen. Sir John Murray. Did you at that time understand that language sufficiently to carry on a conversation in it?

A. I cannot say I understood it sufficiently to carry on a conversation, though I did, I conceive, understand it sufficiently perfect to know what the peasant said, so far as related to the information he gave me.

Q. Do you mean positively to state, that the peasant informed you, that he had seen the French army stationary at Villa Franca at seven o'clock on that morning?

A. I mean to say, that he told me he had left a French division, which he supposed amounted to about 5000 men, at Villa Franca, and that he left Villa Franca at half past seven, as I have before stated according to his report.

Q. Did Adm. Hallowell, when you made your report to him, make any enquiry as to the credibility of the peasant from whom you received your information?

A. To the best of my recollection (for it is a very long time since Adm. Hallowell put several questions to me, with

regard to the information I brought, and from whom I obtained that) I reported to him Colonel Manso's opinion, with respect to the French advancing, as well as the information I had gained from the peasant.

Judge Advocate. That I should think now becomes evidence; being reported by him I think it will be open to Adm. Hallowell to ask what that opinion was, and how he got his information. I understood you to say it was Colonel Manso himself gave you his opinion?

A. Colonel Manso gave it to me through an Interpreter.

Re-examined by Rear Admiral Sir Benjamin Hallowell.

Q. State to the Court the information Colonel Manso gave to you.

A. Colonel Manso informed me, that, from all he could learn, and all he had learnt, as well as his own opinion, the enemy would not advance from the eastward. —To the best of my recollection, Colonel Manso also informed me, that this division was at Villa Franca; his account and the peasant's agreed.

Q. Was this report of the enemy not advancing more strongly confirmed to you by the inhabitants of Torradembara, who had fled from their houses, returning to them whilst you were there?

A. It was.

Lieut.-Gen. Porter. Who was Col. Manso? What was his situation?

Judge Advocate. It appears, in the papers, that he commanded a Brigade.

Lieut.-Gen Sir John Murray. He commanded a Brigade of Copons' army, and generally was in the advance.

Lieutenant-Colonel John Sutherland Williamson, of the Royal Artillery, sworn.

Examined by Rear Admiral Sir Benjamin Hallowell.

Q. Did you command the detachment of British artillery, serving with the army, under the command of Lieutenant-General Sir John Murray, in Catalonia, in June, 1813?

A. Yes.

Q. Do you recollect what orders you received, late on the night of the 11th of that month, from Sir John Murray, relative to the raising the siege of Tarragona?

A. Yes, I do.

Q. State them.

Lieutenant-Colonel Williamson. May I refer to any memorandums I have?

Judge Advocate. When were they made?

A. Immediately afterwards, I have made a copy of them since, but the original was written immediately afterwards.

Q. When the matters were fresh in your recollection?

A. Yes.

Judge Advocate. Then you may refer to them.

A. About half past 11 o'clock, on the night of the 11th of June, I met a Staff Officer.

Q. Do you happen to know his name?

A. I really cannot recollect who it was, who informed me, that Sir John Murray desired to see me immediately at head-quarters; when I arrived there it was 12 o'clock at night. Sir John Murray told me he intended to raise the siege, and desired me to get the guns immediately off. I expressed my regret at this circumstance, and that I had not sooner been made acquainted with it, that I had just taken up another gun to the Oliva, to replace one which had been damaged by the enemy's fire. I informed him it was past 12 o'clock at night, and that it would be day-light in about two hours and a half, or three hours, that before a working party could be collected, and before the guns could be half way down the Oliva, the day would break, that a portion of the road by which they must come after day-light, was under the fire of the place, and some part of it very nearly enfiladed; that from this circumstance, and from the number of men required as the working party, it was hardly possible to hope that the guns would pass the garrison without very considerable loss of men; that I thought it my duty to state these particulars to him, that he might decide upon what he wished to be done. I was not led to suppose, that it was the General's intention to raise the siege in a hurried and precipitate manner, without any previous preparations and arrangements. I pledged myself to bring the guns from the Oliva on the following night, and that with the assistance to be derived from Admiral Hallowell, if the weather was favourable, they would be all on board early on the succeeding morning. I besides assured the General, that by this arrangement, the whole of the stores then landed would be embarked, and not any article whatever left behind. Sir John Murray approved of every thing, and said he would wait until the next night, that was all that passed between Sir John Murray and me, at that time.

Q. Do you recollect receiving any orders the next morning respecting the guns that were then in the batteries, and what were those orders?

General Nicholls. You will speak from your recollection, not merely because it is in the paper.

A. I cannot make my answer so correct, without reference to my paper.

Rear Ad. Sir B. Hallowell. I beg to state, that I have had no intimation what answers Colonel Williamson will make, and that I never saw that paper which he has in his hand.

President. You state that which was within your information at the period, and which you now recollect?

A. Yes, but I cannot be so correct in the words used, unless I refer to this paper. Immediately on leaving headquarters—

Judge Advocate. This is something previous to the orders now referred to.

Rear Ad. Sir B. Hallowell. I should wish the witness to state every thing he knows, I do not desire to suppress it.

A. I will answer the question put to me without any introduction. When we were embarking the guns next morning—

President. If the Admiral alters the question a little, it will introduce the intervening statement.

Rear Ad. Sir B. Hallowell. I do not wish to alter any question, unless it will be more satisfactory to the Court, I wish him to state every thing he knows.

A. When we were the next morning embarking the guns—

Judge Advocate. From the Oliva?

A. No, some guns we had brought down in the night for embarkation, from the Depot, and from No. 1 battery, and the Bridge battery. I think, about 9 o'clock in the morning, General Donkin, the Quarter-Master-General, arrived, and ordered the embarkation of the guns to be discontinued, saying, that General Clinton's division was on its march, and would be on the beach in half or three quarters of an hour; he then informed me that it was the orders of Sir John Murray, that the guns in the batteries should be spiked and abandoned, as soon as General Clinton's division should have passed them, and desired I would take immediate steps to carry the order into execution.

Lieut.-Gen. Sir John Murray. Do you mean the batteries in the Oliva?

A. Yes, the batteries in the Oliva. I immediately dispatched Officers to the different posts, with the necessary

instructions, but peremptorily directed them not to spike a gun, unless they should receive further orders from me, or from the General Officer commanding the post, or from the Commander of the Forces. I stated to General Donkin, that the order he had just delivered, but ill accorded with the promise which the General had made to me, to remain until the next night, when every thing could be got off without noise or confusion, and in a military manner.

Rear Ad. Sir B. Hallowell. Do you recollect my requesting you to suspend the execution of that order till I could see Sir John Murray, and endeavour to dissuade him from adopting such a measure?

A. Yes, I do.

Q. What answer did I bring back to you, upon my return from Sir John Murray?

A. That Sir John denied ever having given any order for spiking the guns, that was the answer Sir B. Hallowell brought to me, and that he would remain till the next night—so the Admiral stated to me.

Rear Admiral Sir B. Hallowell. Might I be allowed to ask Major Williamson, whether he recollects whether my expression was "stay till night," meaning the night of the 12th, or the next night?

A. Till night I understood—that Sir John Murray would stay till night, to get the guns off.

Rear Admiral Sir B. Hallowell. I only wish that to be understood, lest it should be supposed that I wished him to stay till the night of the 13th.

A. I mean the night between the 12th and the 13th.

Rear Admiral Sir B. Hallowell. Had the guns been allowed to remain in the batteries, and the troops to remain on shore, would there have been any difficulty in bringing the guns to the beach for embarkation after dark?

A. None whatever. If I had only had three hours previous notice from Sir John Murray that he intended to raise the siege, I would have got every thing down that night. I only put it to Sir John Murray, whether he would lose those men in passing the garrison after day-break, leaving it to Sir John Murray to do as he thought proper, after I had made the suggestion.

Q. Do you recollect being present at Sir John Murray's head quarters, between the hours of twelve and one in the afternoon, of the 12th of June, when a Spanish officer, Colonel Villamil, arrived from General Copons, with a letter to Sir John Murray?

A. Yes, perfectly; but I only learned afterwards that it was Colonel Villamil. I recollect the circumstance perfectly.

Q. Do you recollect my asking that officer where the French were, and in what number, and his reply?

A. Yes, I do; Sir Benjamin Hallowell asked the officer where he came from; "Torradembara" was the answer. Sir Benjamin Hallowell asked him, "where are the French, where are the enemy?" the reply was "at Villa Franca, at least they were so at seven o'clock this morning;" on being asked how strong they were, he answered, "between five and six-thousand men."

Q. Do you recollect my calling the Quarter-Master-General's attention to this reply?

A. Yes, perfectly.

Rear Admiral Sir B. Hallowell. I beg pardon for stating, that my intention for mentioning the Quarter-Master-General on this occasion is, that it was through him that the information was constantly received, therefore it was through the proper channel.

Lieut.-Gen. Sir John Murray. I beg to set the Admiral right, by saying it was not generally through the Quarter-Master-General.

Rear Admiral Sir B. Hallowell. I beg to say, that I always understood it was through him.

Judge Advocate. Sir John Murray, you of course will be at liberty to shew any other information you had from any other channel.

Rear Admiral Sir B. Hallowell. What answer did the Quarter-Master-General make?

A. General Donkin said, that the Spanish officer knew nothing at all about it, or words to that effect.

Q. Do you recollect my asking the Spanish officer how long it was since he had left Torradembara, and what his answer was?

A. He said, he had left Torradembara two hours.

Q. Do you recollect my calling General Donkin's attention again to this reply, and what answer did he make?

A. The conversation was a little longer than I have now mentioned, but I recollect Admiral Hallowell calling the attention of General Donkin but once, and that General Donkin said the man knew nothing at all about it, and objected to the questions being asked before such a number of officers (for at that time a great number of officers were

collected round) so as for them to hear the accounts that were brought.

Rear Admiral Sir B. Hallowell. Might I be allowed to state a circumstance to Major Williamson, to try to draw his attention?

Judge Advocate. You will put any question to him.

Rear Admiral Sir B. Hallowell. I only wish to ask whether he does not recollect General Donkin saying, "we had better not be talking here, but go and look for the General?"

A. I cannot answer to the precise words, but that the Quarter-Master-General objected to any more being said in the presence of so many officers.

Q. Upon General Donkin's making that reply, do you recollect my remarking that if he would not credit the Spanish officer's report, he could easily ascertain where the enemy was, by sending out an officer immediately, an hour after a second, an hour after him a third, and an hour after him a fourth, and that thus he would have a succession of information, that he could depend upon?

A. Yes.

Q. What was the Quarter-Master-General's answer?

A. That he had no officers for that duty, or no officers to spare.

Q. At what time did you receive the last order to spike the guns, and destroy the carriages in the batteries?

A. I cannot positively say, the last order did not come through me at all; it was never communicated to me. I heard of it, I suppose, about one o'clock, as nearly as I can recollect; the orders had been sent off to the officers commanding at the posts, and I believe the guns were spiked in consequence of those orders. I sent no orders to the officers under me at those posts. This was off, o'clock on the day of the 12th, and almost immediately after the Spanish officer had brought this intelligence to Sir John Murray, a quarter of an hour or so, I suppose.

Q. Were any mortars or other ordnance stores landed on the 10th of June?

A. Yes.

Q. State what they were?

A. I believe two ten-inch mortars were landed on the 10th of June; certainly, two mortars were landed, and I believe they were ten-inch mortars—there were certainly stores landed; stores were landed daily.

Q. You recollect some being landed on the 10th?

A. Yes, there was a constant landing of stores every day; there was two or three days' consumption landed at first, and every day there was a landing of stores to keep up the expenditure.

Q. What guns and mortars were moved forwards on the night of the 10th, and for what purpose?

A. Moved forwards, where?

Q. From the Depot, to be placed in batteries.

A. These two mortars only.

Q. What guns and mortars were moved forwards by the seamen and the soldiers allotted as a working party, on the night of the 10th, to the mortar battery, and the six-gun battery?

A. When those batteries were commenced building on the Oliva, as they could not be finished in one night, I brought up the guns by degrees, and every thing was near in rear of the battery, at the distance of only about one hundred and fifty yards, waiting till they were finished; all except these two mortars, that were taken up that night; the working party was employed in putting the guns and mortars into the battery, which had been previously brought up when it was completed, and in taking up these two mortars, and in bringing up ammunition and stores.

Rear Admiral Sir B. Hallowell. I should not have put this question, only it stands upon the minutes of this Court Martial, that great delay and irregularity prevailed among the boats in landing the stores. Did you ever meet with any difficulty or delay in landing any stores whatever which you wanted, whenever they were required?

A. Never in the least; Admiral Hallowell anticipated my wishes on every occasion, and gave me the most prompt and ready assistance.

President. It is now three o'clock. The Court will therefore adjourn.

Adjourned to to-morrow morning, ten o'clock.

FOURTH DAY.

Thursday, 19th January, 1875.

The Court met pursuant to adjournment.

Lieut. Col. John Sutherland Williamson called in again.

Examined by Rear Admiral Sir B. Hallowell.

Q. Can you state to the Court the quantity of ordnance stores left behind?

A. I cannot take upon myself to speak exactly to the shot and shells, about two days' consumption was left behind. I mean of shot and shells only. All the powder and valuable stores were got off.

Q. Will you look at that paper, and see whether it brings it to your recollection. (*Shewing a paper to the witness.*)

A. Yes, I recollect this perfectly well, and I have no objection to put my name to it. This is a paper given in to Admiral Hallowell, by the Commissary of Artillery.

Q. Was this taken at the time?

A. The Commissary of Artillery kept an account, and shewed it to me. I have no hesitation to put my name to it, for I believe it is right.

Judge Advocate. Sir John Murray, this is the Commissary's return, but it is not signed; but, I believe it had better be left upon the general evidence. You cannot from memory state, that that is a correct return?

A. No. I can only speak to that being the paper shewn to me by the Commissary of Artillery.

Gen. Sir George Beckwith. Is it the identical paper?

A. I believe it is the same paper. I have no hesitation to put my name to it.

Rear Admiral Sir B. Hallowell. That paper was delivered to me by the Commissary of Artillery.

A. Previous to that, he shewed it to me; and I believe that to be the paper.

President. Unless there is any objection made to it, I do not see any objection to our having it; it may give information to the Court.

A. I know exactly the number of pieces of ordnance left behind; but here are shot and shells mentioned, all which I cannot, of course, bear in mind.

President. If there is any illegality in it, or Sir John

Murray makes any objection, it may be considered certainly; but if not, I think it is desirable, for the information of the Court, to have it before them.

Rear Admiral Sir Benjamin Hallowell. If the Court is not anxious to know the exact amount of the return, I am not anxious to press it upon them.

President. The Court must have a wish for every possible information they can obtain, that is not contrary to the rules of evidence; that that is the wish of the Court, very much, I can answer for.

Gen. Sir George Beckwith. If the witness signs that return, it is evidence, I should conceive.

Judge Advocate. I will just mention how the paper stands. This is a paper which the witness says, he believes to be the very paper shewn to him at the time by the Commissary of the Stores, and afterwards delivered by him to Sir Benjamin Hallowell; and which, therefore, he is now prepared to sign.

Lieut.-Gen. Sir Sam. Auchmuty. If he can say upon his oath, that it is the paper, it is evidence, I conceive.

A. I believe it to be the paper containing the return made to Admiral Hallowell, and shewn to me at the time.

Lieut.-Gen. Sir Sam. Auchmuty. If the witness will say upon his oath, that that is the paper, I think it may be admitted as evidence; but at the same time that it is not an authentic document, and that the Court cannot do anything with it when it is admitted.

Judge Advocate. It is not usual to call upon a witness to swear further than to the best of his belief.

General Nicholls. I think it would be very irregular to take a paper which had been delivered in months ago, and now to render it authentic by the witness signing it before the Court. I think it is as well as it stands, as if he put his name to it.

(The paper was handed by the Judge Advocate to Sir John Murray.)

Rear Admiral Sir B. Hallowell. Sir John Murray, I must desire that paper may not be shewn to those persons (*Sir J. M.'s Aid de Camps*) keep it to yourself if you please.

Lieut.-Gen. Sir John Murray. My only question is as to the paper being produced now, I have no opportunity of examining as to the accuracy of it; if the Commissary of Stores was here, I could examine him as to the accuracy of it. Colonel Williamson may swear to its being the paper that he saw; but he cannot swear to the accuracy of it.

Lieut.-Gen. Sir Sam. Auchmuty. That is what I say. That though admitted before the Court, I do not see that we can act upon it at all, when it is received.

Judge Advocate. I would mention, that it is different from what I supposed, it is not a report made regularly to this gentleman; but as I now understand it is a report merely shewn accidentally to him. I believe, therefore, it will be best to reject that paper altogether; and to call upon the witness to state his best recollection of the quantity. Can you state any more particulars than you have already stated?

A. No; I cannot state further, than that there was about two days' consumption.

President. You will state as nearly as you can what was left behind, and that may be taken down upon our minutes.

A. There were seven twenty-four pounders, five 10-inch mortars, five 8-inch howitzers; there was one damaged 24-pounder, which of course was left behind; there were 17 serviceable pieces left behind, and one unserviceable.

President. Go on to state as nearly as you can, what quantity of ammunition was left behind.

A. A great quantity of shot and shells was embarked; but there was some left behind; I cannot state the quantity precisely, I do not know that two days' consumption was left behind, more than one, certainly; for we embarked a considerable quantity of shot and shells, after the guns were embarked on the 12th; those guns which were left had their carriages also; some of the carriages were burnt, and some were not.

Judge Advocate. Platform carriages?

A. Yes, every thing belonging to those guns was left behind or destroyed. Every thing on the batteries, belonging to the guns left behind, was left behind also.

General Sir George Beckwith. The carriages of the howitzers left behind were burnt?

A. Yes.

Q. But not of the guns?

A. Some of them were attempted to be burnt.

Lieut. General Sir John Murray. When you say left behind, you mean left behind in the batteries?

A. Yes, there was some shot left on the beach, which could not be embarked; the troops came down, and there was not time to embark them—the guns were all embarked by 12 o'clock, but the troops not coming down immediately, I took advantage of the boats, and embarked them.

Judge Advocate. Three or four thousand round of shot?

A. Oh, I must beg to waive that, I cannot speak with any precision at all to the quantity.

Rear Admiral Sir Benjamin Hallowell. Were the carriages for the 24-pounders left behind in the batteries, or burnt?

A. They were left behind in the batteries. If it had been decidedly stated to me, that the troops were to embark, and the siege actually to be raised at twelve o'clock or one, I should have destroyed all the carriages, and, probably, the guns; but Sir John Murray having promised to remain till the next night, I relied upon that.

Lieut. Gen. the Hon. Sir Edward Paget. That is just the same as he stated before.

Judge Advocate. Not precisely; what he formerly said was, that if he had known over night, he would have saved them, and this is, that if he had known in the morning he would have burnt them.

Rear Admiral Sir Benjamin Hallowell. What sort of carriages were those?

A. The 24-pounder carriages, and the howitzer carriages, were travelling carriages; the mortars had iron beds, but each of the mortars had a carriage, called a platform carriage, on which it was customary to move them on the road.

Cross-examined by Lieut. Gen. Sir John Murray.

Lieut. Gen. Sir John Murray. There are some returns which I should wish Major Williamson to look at, with a view to saying whether they are signed by him.

Judge Advocate. General Murray wishes, as Major Williamson is here, to prove his signature to these returns, that he may produce them when he wishes in the course of his evidence. I will mark them so that they may be identified. Is that your signature? (*shewing a paper to the witness.*)

A. That is my signature.

Q. Is that your hand writing? (*shewing another paper to the witness.*)

A. Yes, it is.

Q. Is that your hand writing? (*shewing another paper to the witness.*)

A. It is.

Q. Is that your hand writing? (*shewing another paper to the witness.*)

A. It is.

Q. Is that your hand writing? (*shewing another paper to the witness.*)

A. It is.

Lieut. Gen. Sir John Murray. Are you acquainted with Mr. Daniel's hand writing?

A. I have seen it very often.

Q. Look at that paper. (*shewing a paper to the witness.*)

A. I believe that to be his hand writing. It is very similar to his signature in many letters I have received from him.

Judge Advocate. Have you ever seen him write?

A. Yes, but I never took any notice of his writing at those times.

Judge Advocate. It will do either way, if you saw him write, or received letters from him, which you answered.

A. I have received several letters from him which I have answered, and I should take that, certainly, if I saw it to be his writing, I believe it to be—the other papers are my own hand writing certainly.

Lieut. Gen. Sir John Murray. Is that your hand writing? (*shewing another paper to the witness.*)

A. It is.

Q. Are you acquainted with Captain Molloy's signature?

A. No, I am not.

Q. When you saw General Donkin on the morning of the 12th, and stated to him, that the orders he delivered but ill accorded with the promise the General made you to remain till night, did you conceive that what you call a promise was to prevent the Commander of the Forces from making any subsequent disposition, which more recent information or circumstances might render it desirable for him to do?

A. Certainly not, I look upon all promises of that kind from a General, as conditional, of course. I conceived it to be a conditional promise on his part.

Q. When General Donkin communicated to you in the morning my intention of spiking the guns on the Oliva batteries, did he not state that such operation was to be dependent on General Clinton's division having passed those batteries in their way to the beach?

A. He told me, at least he mentioned to several persons round in my hearing, that General Clinton's division was on its march, and would be down on the beach in half, or three quarters, of an hour, and that the guns were to be

spiked as soon as that division had passed the batteries; when he mentioned that General Clinton's division was on its march, he only mentioned it in my hearing, not particularly addressing himself to me, and he told me that the guns were to be spiked as soon as the division had passed the batteries.

Q. From what General Donkin said, did you consider the precise period when the guns were to be spiked was to be in half, or three quarters, of an hour, or only when General Clinton's division have passed the batteries, even if that circumstance should occur at a much later period than the time you have mentioned?

A. If General Clinton's division was down at the beach in half or three quarters of an hour they must have passed the batteries, because they would take three quarters of an hour or an hour to march down to the beach.

Judge Advocate. I think that question is answered in a former answer.

Lieut.-Gen. Sir John Murray. I only wish to shew that the destroying the guns, was conditional on their passing. Do you recollect my ordering a proportion of Congreve rockets to be landed?

A. I cannot positively answer that question; I think there was an order of that kind, but the rockets were not under my charge.

Lieut.-Gen. Sir John Murray. The order was given to you and you landed them?

A. I think they were landed; yes, they were landed, I recollect it perfectly well, and I recollect the frames being embarked again, that they were landed and taken to the Oliva.

Q. On what day did you receive that order?

A. I really cannot say, for I did not make any memorandum of it.

Q. Is there no circumstance that will bring to your recollection about the time?

A. None that I can call to mind.

Q. On what day were the rockets landed?

A. I made no memorandum of it, and I really cannot say; I did not conceive them to be particularly under my direction.

Q. Did no interval elapse between the order for the landing and the execution of it?

A. I cannot answer that question, when orders were given to land guns, or to land ordnance, I gave directions to the officers under me, and finding that every thing went

on right, and that I could keep pace with the operations, I was perfectly satisfied with every thing that was done, and was not particular as to how many guns or what was landed on such a day, or such a day; I knew I was ready for any thing that might offer.

Q. Can you bring to your recollection, your stating to me as a reason why the rockets had not been landed, that they had been for two days in a boat, but could not be landed on account of the surf?

A. Yes, I think I do; but as I said before, the rockets not being under my particular charge, I cannot speak positively, I paid less attention to that branch of the service, not being my own.

Re-examined by Rear Admiral Sir Benjamin Hallowell.

Q. Can you speak positively, when you say that for two days rockets could not be landed, or merely from the report of the officer having charge of the rockets?

A. Only from the report of the Commissary of Artillery.

Rear Admiral Sir Benjamin Hallowell. Perhaps I might save a great deal of time and trouble to the Court; I hold in my hand the minutes I made upon the spot daily at the siege of Tarragona. I can read to the Court the different days that stores were landed, which will prove to them at once, whether it was practicable or not; I do this, because perhaps some of the witnesses have not made the same remarks, but trust to their memory. Major Williamson being on shore, did not remark the circumstance, but I can prove that stores were landed, and that will prove the practicability of it.

President. The Admiral may state, as a witness, those facts.

Judge Advocate. It is in your power, as a witness, to speak to the circumstance.

Rear Admiral Sir Benjamin Hallowell. I speak as a witness from the minutes made by me on the shore from day to day, or if it was in the night, I made them the next morning.

Judge Advocate. It is competent to the Admiral to offer that evidence whenever he pleases.

President. The Admiral having memoranda, may swear to the facts contained in those memoranda.

Judge Advocate. Do you wish to do it now, or after the examination of this witness?

Rear Admiral Sir Benjamin Hallowell. Whenever it is most convenient to the Court.

General Harris. I should think the Admiral may as well examine his witnesses, and then he may supply any facts the witnesses have omitted to prove.

Rear Admiral Sir Benjamin Hallowell. If you please.

President. Sir John Murray will then have an opportunity of calling any witnesses, if he thinks he can disprove any of the facts spoken to, by Admiral Hallowell, or any of the other witnesses.

Lieut. Col. Fred. Rennell Thackeray of the Royal Engineers sworn.

Examined by Rear Admiral Sir Benjamin Hallowell.

Q. Did you command a detachment of royal engineers serving under Sir John Murray, in June 1813, on the coast of Catalonia?

A. Yes, I did.

Q. Do you recollect waiting on General Mc Kenzie at his quarters on the evening of the 11th, about half past 8 o'clock, and delivering to him a message from Sir John Murray, relative to the storming of the Fuerte Reale, if you do, relate what that message was?

A. I understand the question, but without a considerable degree of circumlocution, I cannot precisely answer the question, I had a great deal to do with General Mc Kenzie, about storming the Fuerte Reale on that day.

Judge Advocate. The question points to a communication at a particular time.

General Harris. Have you any memoranda to speak from?

A. I have a letter, but I remember a great deal about the Fuerte Reale on that day.

Rear Admiral Sir Benjamin Hallowell. Perhaps it will bring it to the Colonel's recollection, if I say carrying him a message from Sir John Murray, directing him to storm the Fuerte Reale.

A. I remember calling on General Mc Kenzie, on the evening of the 11th, to make arrangements respecting the attack on Fuerte Reale, I do not recollect the exact hour, for I had repeated conferences with Generals Clinton and Mc Kenzie, in the course of the day on the same subject.

Q. Was the communication made to Gen. Mc Kenzie at that hour in consequence of orders from Sir John Murray?

Lieut. Gen. Sir John Murray. If it will save the time of the Court, I have no sort of objection to admit, that up to half past eight o'clock all preparations were made; and I

have no objection, likewise, to admit, that after nine they were countermanded.

Judge Advocate. Will that serve your purpose, Admiral Hallowell?

Rear Adm. Sir B. Hallowell.—Certainly; I have no objection if it is admitted that the orders were carried.

Lieut.-Gen. Sir J. Murray. I have no objection to admit, that up to half past 8, every arrangement was carrying out, by my orders, for the storming of the Fuerte Reale, and I have likewise no objection to admit, that soon after nine (I cannot speak to a few minutes) it was countermanded.

Judge Advocate. I believe that answers the purpose of the question.

Rear Adm. Sir B. Hallowell.—Quite to me.

Judge Advocate. Then the Admiral, being satisfied with that admission, the question is withdrawn.

Rear Adm. Sir B. Hallowell.—Were the officers of engineers employed on the night of the 10th, in making a mortar battery, and in completing a six-gun battery, to fire on the town of Tarragona and the Fuerte Reale?

Lieut. Gen. Sir John Murray. I should think that my admission extended to that.

Rear Adm. Sir B. Hallowell. If the Court have no objection, I should wish that to stand upon the minutes. As Col. Thackeray was at the head of the Department, perhaps it will appear better coming from him, than from any other channel.

Lieut. Gen. Sir S. Auchmuty. The Court can have no objection certainly.

A. I will refer to my minutes.

Judge Advocate. Were these Memoranda made at the time?

A. Yes, it was a letter I wrote to the Inspector-General of Fortifications immediately after.

Judge Advocate. You may look to that, and refresh your memory by it.

A. On the night of the 10th, two batteries were completed, which had been commenced on the 9th, and the battery on the Oliva enlarged, so as to be capable of containing six guns. There were only four before. I conceive those to be the batteries alluded to in the question.

Rear Admiral Sir Benjamin Hallowell. Had you received any directions to prepare for retiring, previous to the sudden order given on the night of the 11th, to raise the siege?

A. No.

Q. As you had frequently reconnoitred the country in the neighbourhood of Tarragona, I wish to know how long it would take an army of 8000 men to march from Villa Franca to Tarragona, provided their march by the high road, leading to Torradembara, was intercepted by the fire of armed vessels on the coast?

A. That depends upon the number of armed vessels.

Judge Advocate. The question takes for granted, that there were means of stopping their march on that road altogether.

Rear Ad. Sir B. Hallowell. If the great road was intercepted by us, what time it would take them to go by any other road?

President. Supposing that one road stopped up, what time it would take them to go by any other road, any cross road?

A. I really am not prepared to answer the question; I think it is two long marches; the only communication at all direct between Barcelona and Tarragona, is that by the Sea Coast, or by the Coll de Lasana, or the Coll de Laprae, which may be considered as a communication for an army not very near the enemy; the French were in the habit of using both those roads.

President. The question is, supposing that that road were stopped up, what time it would take them by any other road which they might have taken?

A. I think two long marches, by a march, I mean a day.

Q. What is the computed distance from Tarragona to Perillo by the high road?

A. I cannot answer that question without the map.

Rear Ad. Sir B. Hallowell. I do not mean a mile or two, but a day's march.

A. I should divide the distance, and say, from the Coll de Ballaguer to Perillo, and from Perillo to Tarragona, is each a long day's march, it is twenty miles at least, from the Coll de Ballaguer to Tarragona.

Q. That answer relates to the high road?

A. Yes, it does.

Judge Advocate. You merely wish to know the distance, independent of any obstructions in the way?

Rear Ad. Sir B. Hallowell. I wish to know the distance, so as to prove that there was not a necessity for taking off the things in the precipitate manner we did; that the enemy would have been delayed by the state of the road, even if

they had been at the point we supposed them to be at; even if they had been at Vendrills.

A. Then with the application to that point, I should state, that there was a fort in our possession in the way.

Rear Ad. Sir B. Hallowell. There is a question pointed to that; but I wish to make every thing quite clear as I proceed; what was the distance by the road the enemy would be obliged to pass from Perillo to Tarragona, supposing we occupied the Pass at Ballaguer, which we did?

A. We occupied the Pass at Ballaguer, I believe, by a corps; but certainly by a fort we had taken; I conceive that road to be the only direct communication for an army between the Lower Ebro and Tarragona; there is another road through which Marshal Suchet pushed his advanced guard, on a subsequent occasion; but, I believe, it is not a road that an army could advance upon; I am not prepared to say how much time the enemy would lose by making the circuit; but I understood at the time, that it was very considerable; I understood the road at that time to be impassable; but from what I learnt afterwards, which, perhaps, it would not be proper to mention, Marshal Suchet, when he broke up from Valencia, though he was cannonaded, and knew he should be cannonaded when the fort was broken up, did not take the other road; but though he knew he should be cannonaded by the ships, he came by that road, and lost both men and horses.

Rear Ad. Sir B. Hallowell. As that relates to a circumstance which passed afterwards, I do not know whether it is to be received; but, as Colonel Thackeray speaks from recollection, I must tell him, that at the time he alludes to, there was not a single ship there, that the *Invincible* was in Tarragona Bay, and got under weigh upon hearing of it, and just caught them.

A. I saw it, and saw the loss of men and horses.

Rear Ad. Sir B. Hallowell. We had no army; and our ships and gun boats were not there at the time.

Judge Advocate. It can be evidence only in this way. The witness is asked, as to the possibility of an army coming another way; he says, he thinks it would take a long time for them to come round; his opinion is all he can state now, which he forms partly from what he knew at the time, and partly from what he has learnt since; but we cannot go into particulars of what passed since.

Rear Ad. Sir B. Hallowell. You have been misinformed as to there being gun-boats there.

A. It was something from the sea, I saw the dead bodies.

Lieut.-Gen. Sir John Murray. It appears from what Admiral Hallowell has said, that there were no ships there when Marshal Suchet took the determination ; but that Capt. Adam was in Tarragona Bay, and ran his seventy-four down there and caught them, so that I do not see the application of it.

Judge Advocate. It shews the opinion of the witness not to be so well founded, certainly ; I am to take only the opinion of the witness, that he conceives the road he has referred to, to be impassable.

A. Not impassable, only impassable for an army bringing cannon, and so on.

President. You conceive that road was not practicable for an army bringing their cannon, &c ?

A. Yes ; Marshal Suchet alludes to the circumstance I have mentioned in his dispatches.

Judge Advocate. It appears to me, that the only part which ought to be taken down, is, "I understood the road then to be impassable for an army with cannon, and what I have since learned with regard to Marshal Suchet confirms that opinion." If General Murray wishes to go into it more particularly, he is at liberty to do so.

Rear Admiral Sir B. Hallowell. I am quite satisfied with that, so far as my case is concerned, I do not know whether this question is necessary. Could cannon pass along the latter road you have described ?

Judge Advocate. You cannot go into particular facts, but state from all the information you have, whether cannon could pass by that latter road you have described ?

A. I believe that very light guns could.

President. Would you mention the sort of guns you mean, whether six-pounders or what ?

A. I never saw the road, but I heard two light guns have passed, I allude to smaller guns than six pounders.

Rear Admiral Sir B. Hallowell. How long would an army be in marching from Perillo to Tarragona, by that road ?

Judge Advocate. Do you mean an army with cannon or without ?

Rear Admiral Sir B. Hallowell. An army coming to interrupt our embarkation at Tarragona.

Judge Advocate. He has before said that the cannon could not pass that road at all.

Rear Admiral Sir B. Hallowell. Then an army without cannon?

A. I am not sufficiently acquainted with that road to give a precise answer to that question; I believe it is a very bad road, I mean the part through the mountains, which I believe to be very bad.

Q. Do you think it could be performed in so short a period as two days?

A. I think not.

Q. As you have stated the distance and the time it would take an army to march from Villa Franca to Tarragona on one side, and that they could not march in so short a period as two days from Perillo to Tarragona on the other side, was it possible for the enemy to have prevented our taking our guns and stores of every kind away with us, when we raised the siege of Tarragona?

Lieut.-Gen Sir John Murray. I should wish to submit, whether that is not merely a question of opinion?

Judge Advocate. Yes, it is taken as such from him as the principal engineer officer—the Court can take it only as his opinion.

A. I thought not, and said so at the time; and I have seen no reason to change my opinion since. I mean, I thought we might have brought off our guns, and I stated that opinion to Sir John Murray at the time.

Q. Do you know any cause whatever, that could have made it necessary for the siege of Tarragona to be raised, in the precipitate manner in which it was raised?

A. I know of no cause.

Judge Advocate. Sir John Murray, it may be proper to state the grounds upon which the answer you objected to was admitted; the Court are always in the habit of permitting persons of a particular profession or trade, or whatever it is, to give an opinion upon that subject with which they are conversant; and this stands as the opinion of this witness, upon a subject with which he was connected, possessing the degree of information which he did.

Cross-examined by Lieut.-Gen. Sir John Murray.

Q. Do you know the exact periods of the arrival of the enemy at Villa Franca and Perillo?

A. No, I do not.

Q. Ignorant as you say you are of the exact periods of the enemy's arrival at Perillo and Villa Franca; can you take upon yourself to say, that the enemy might not have

reached Tarragona from either or both of those places before the embarkation of the army, with all its guns and stores, could be completed?

Judge Advocate. You understand, of course, this is merely an opinion, you cannot be expected to speak positively to it.

A. I will not take upon myself to assert, that the operation of embarking all the stores, guns, and troops, might have been completed; but I thought then, and I think now, that if the enemy had been advancing, we should have had time to embark the troops. I mean that if we had had detachments out, the information we should have received from them, would always have given us time to have desisted from embarking the stores, and to have embarked the troops.

Q. How long do you calculate it would have taken to embark the infantry, cavalry, and field artillery, with their horses?

A. I have not made that calculation, it would have taken a very considerable time to embark all these certainly.

Lieut.-Gen. Porter. Cannot you say how many days, a very considerable time is very indefinite?

Lieut.-Gen. Sir John Murray. That is on the supposition that the army was embarked, leaving off embarking the stores, on information of the approach of the enemy being received.

A. I do not now recollect the number of boats that we had; to give any answer of that kind, I must go into a detail of the number of boats that the fleet had—it is not in my own memorandum.

Judge Advocate. I do not know whether the witness perfectly understands the view with which this question is put; you have stated, that by having detachments of troops out, you might have had notice, so as to have left off embarking the stores, and to have embarked the troops, and that there would have been time to have embarked the troops, certainly—you are now asked how long it would have taken to have embarked the infantry, cavalry, and field artillery, with horses?

Lieut.-Gen. Sir John Murray. It appears by Captain Withers's statement, that there were between 1600 and 1700 animals, horses and mules, on shore.

A. I must ask the number of our boats, and the distance of the horses, to make such a calculation.

Judge Advocate. The witness has confined his answer to

the troops, and he now says, he has not made a calculation as to the artillery and cavalry, but that there would have been time to embark the troops.

Lieut.-Gen. Sir John Murray. What does he mean by troops? I beg to explain to the Court, that as Colonel Thackeray had said, in his former answer, that the army could embark, I only wish to know, what time he allowed for that embarkation. All the conclusions put to him by Admiral Hallowell have been adopted, and I wish to know the grounds of his conclusions?

A. I could not tell Admiral Hallowell the distances he asked me.

Judge Advocate. All he says is, that he conceives there would have been time to have embarked the troops.

Lieut.-Gen. Sir John Murray. Then, I would ask him what he means by troops in his former answer?

A. I never should have conceived, that if we had been at all pressed, we should have had time to save the commissariat mules and animals to the number mentioned, of 1700; but Captain Withers would be better able to answer those questions than I can be.

Judge Advocate. Does this answer your purpose, Sir John Murray?

Lieut.-Gen. Sir John Murray. Not perfectly; because there were not commissariat horses and mules in that number, they were cavalry, artillery, and staff horses, or very nearly all. Do you mean, then, that if pressed, we should have had time to embark the cavalry, artillery, and staff horses, which composed, or very nearly so, the number of upwards of 1600, which has been mentioned?

A. If we had been pressed, I conceive, we certainly should not; but, in the situation we were in, I thought we might have run the risk of losing some of the animals, for the sake of trying to save some of the artillery and stores which we lost. A considerable quantity of stores were lost; I do not now recollect the exact quantity.

Lieut.-Gen. Sir John Murray. May I verify this paper, which is in the hand-writing of the witness?

It was shewn to the witness.

A. This is the paper I transmitted, I believe.

Lieut.-Gen. Sir John Murray. It is.

A. It is my hand-writing; it is a translation which I made for General Murray, on my return to Catalonia.

Lieut.-Gen. Sir John Murray. Is it a faithful translation

of a memoir, which you, yourself, gave to me from General Copons.

A. To the best of my abilities, it was a faithful translation. I said at the time, that I was not quite master of the language, but that I was certain it was the sense of the memoir.

Q. From your knowledge of the country about Tarragona, how much of the high road by Torradembara could have been intercepted by the fire of the gun-boats?

A. I wish the term intercepted to be explained.

Lieut.-Gen. Sir John Murray. For what extent of coast they would have been exposed to the fire, if you please?

A. Does the question mean only the part of the road near Torradembara, or along the whole of the road?

Lieut.-Gen. Sir John Murray. The part of the road from Torradembara to Altufalla, which is where the ships could bring their fire to bear; I am not aware of any other part which is exposed.

A. I know that, in general, a considerable part of that road is exposed to the fire of gun-boats; I saw gun-boats fire before the army came up, when I was on board Captain Adam's ship.

Q. I wish to know the distance?

A. I am not prepared to state the distance. I think the officers of the navy, who are acquainted with that line of coast, would answer that question better than I could; in some places the road recedes from the sea, in other places it comes very much upon the sea. No map or plan I have yet seen, is perfect.

General Nicholls. Can you state whether a mile, or what distance?

A. I am afraid to assert the distance; the naval officers who have been employed in gun-boats firing on the French on that road, could answer better than I could; I have seen them fire on the French troops; there are parts of the coast more than two miles asunder, where the road comes down nearer the sea than others, but then the road recedes again, and for some distance they might go on without being exposed.

Judge Advocate. Do you mean that the road is exposed for two miles together in any places?

A. No; I do not think there is any part two miles together where they would be exposed; but they may go on two miles, and then they come to another part where it is

exposed again, there being some places where they would be sheltered by trees and rocks, and so on.

Lieut.-Gen. the Hon. H. G. Grey. Were you near enough to judge of the effect of the shot?

A. No, I was not; the gun-boats annoyed the enemy so much, that I know they used to open their files.

Judge Advocate. I have taken you to say, there are no parts where the road is so exposed for two miles together?

A. In my opinion.

Lieut.-Gen. Sir John Murray. Could not the enemy, by a short detour from those exposed places, almost entirely avoid the fire of the gun-boats?

A. I think not.

Q. Could not the enemy have passed this road almost without interruption during the night?

A. I do not think that the fire of the gun-boats would be of much consequence at night.

Q. Supposing the enemy to march with field artillery only, without interruption by the gun-boats, what is the shortest time in which he could arrive at Tarragona from Villa Franca, by the high road?

A. I think, in my former answer, I stated it as two long marches.

General Harris. That is not the high road?

A. No; it is not.

President. The question is a very plain one.

A. I should say it was too long a march for one day; it is, I believe, about thirty miles; I state the distance from recollection; if it is material I should speak precisely, as to distance, I can be prepared to do so.

Lieut.-Gen. Sir J. Murray. What is the shortest time in which he could march, under the same circumstances, from Arbos, by the same road, taking off the distance from Villa Franca to Arbos?

A. I do not recollect how far Arbos is from Vendrills on the one side, and Villa Franca on the other; I know it is on the road between the two.

Lieut.-Gen. Sir J. Murray. I had felt more confidence in making enquiries of this witness as to the roads, for he was cited by Admiral Hallowell as being so conversant with the roads.

A. The distance of the roads I have no precise information of—that is in the Quarter-Master-General's department.

Lieut.-Gen. Sir J. Murray. I ask the questions merely because you were cited by the Admiral as being so extremely

conversant with the roads, and the army lying sometime in that quarter, I thought you might have been acquainted with the distances. I beg the Court to observe, as to all these cross-roads, Colonel Thackeray has given the distance and the time of marching, this is the direct road from Tarragona to Barcelona, where the army was stationed a long time, and which Colonel Thackeray must have passed every time he communicated with Head-quarters.

A. I have seen the road repeatedly, and referring to any map or book of roads, would give the distance.

Lieut.-Gen. Sir J. Murray. You have given your opinion as to when the enemy might arrive, and as to what might have been done before the arrival of the enemy; I am extremely anxious the Court should see the grounds upon which your calculations are founded, and how much consequence can be given to them.

A. I could answer more precisely if I had my papers.

Q. Are they in the town?

A. They are not.

Lieut.-Gen. Sir J. Murray. It appears very singular, if the witness had no more information on the subject of roads, that he could give the opinion he has done so decisively; how much of the main road from Perillo to Tarragona was exposed to the fire of the shipping?

A. When the road comes near the Coll de Ballaguer, it is exposed to the fire of the shipping, and continues so sometime after it leaves the Coll de Ballaguer. At one part, so much so, that I consider it almost impassable if ships were anchored with springs on their cables—it comes close to the sea. When I passed the last time, there were grazings of shot for about a mile, between Coll de Ballaguer and Cambrills, across the road. I speak only from recollection as to the distance, but there were a great many grazings, and trees a great deal cut up on the road to Tarragona. At the time we are speaking of, there was a fort in the Pass—when I passed, there were dead bodies of horses and men, some of the shot had come short of the road, and some passed over the road.

Q. Do you not know that Marshal Suchet passed the exposed part of the road between Perillo and Tarragona, notwithstanding the fire of the Invincible?

A. I know it, because I saw the bodies of men and horses there.

Q. If, then, Marshal Suchet could pass the high-road in spite of the fire of a 74 gun ship on the one side, do you

think General De Caen's army would have been prevented in its march on the high-road from Villa Franca to Tarragona, by the fire of the gun-boats on the other?

A. I do not think that the march of troops from Villa Franca to Tarragona could be prevented by the fire of gun-boats; it must be a very heavy cannonading to prevent troops from passing a road.

Q. You have stated, that if detachments were out, we might have had time to have embarked the troops; do you mean detachments to procure information, or to keep in check the advance of the enemy?

A. To procure information of his advance, we, in my opinion, might have received information of the approach of the enemy from the side of Coll de Ballaguer, by signal from that place, as we were within hearing of the fire of the guns, and on the Villa Franca road we might have had information by signals from the ships.

Lieut.-Gen. Sir J. Murray. I shall have occasion to call Colonel Thackeray in my defence—I have no more questions to put at present.

Judge Advocate. Admiral Hallowell, you will either put your questions on re-examination, or when he is called again.

Rear Ad. Sir B. Hallowell. I had rather put them, as they are fresh in my recollection, now.

Re-examined by Rear Admiral Sir Benjamin Hallowell.

Q. As you have been questioned respecting the part of the Coast which is exposed between Torradembara and Tarragona, I wish to put this question—Do you recollect an arch to the eastward of Torradembara, and at what distance it is from Torradembara?

A. An ancient Roman arch I do recollect—but I do not recollect the precise distance.

Q. Can you state within a quarter of a mile, or half a mile?

A. I could on the spot; but I cannot recollect it sufficiently to give a precise answer.

Q. Do you think it is a mile, or two miles?

A. I do not recollect whether it is nigh Cressells—I do not recollect the distance sufficiently accurate to give any answer—I think it is near Cressells; but I cannot say on which side.

Q. You have given your opinion respecting the coast from Torradembara to Tarragona, do you know that the whole of the coast from Torradembara, as far as to the arch,

which is to the eastward of it, is exposed to the fire of ships and boats?

A. I do not believe that the arch is out of reach, but, on recollection, it does not appear to me to be very near the sea, as far as I remember—that is not the most exposed part of the road, certainly.

Q. Is there any part of the road, from that arch, all the way down to Torradembara, which is not exposed—that is my question?

A. I am not able to say that it is not exposed to fire, but it is not what I should suppose good fire. To the best of my recollection, where the arch is, is too far distant to be good fire.

President. The question relates to the whole of the road between the two points.

A. I do not recollect the road sufficiently to assert that—that is the course of the road; nearer to Torradembara is most exposed.

Rear Ad. Sir B. Hallowell. As you have been asked about the number of troops that can be embarked in a day, I wish to put this question—Do you know that all the infantry of the army were disembarked between sun-rise and three o'clock of the afternoon of the 3d of June, with 146 horses, 50 mules, 18 field-pieces, and 4 howitzers, with ammunition, and men attached to them; and that the army by that hour had been marched, or were on their march, to their different positions. I put that question, because it has been asked how long it would take to take the troops off; I wish it to appear how long it took to put them on shore?

A. I cannot speak to the number; I remember that the army disembarked on the 3d of June, but I cannot recollect all the particular corps at this distance of time.

•Q. Do you recollect their being on shore by that time?

A. I was employed away from the beach at that time; I know generally, that the army landed on the 3d, but the details did not pass through me.

Q. In point of fact, did not the cavalry and artillery, amidst all the supposed necessity for such a precipitate retreat, go unmolested to the Coll de Ballaguer, and remain unmolested for several days afterwards?

A. I believe the artillery and cavalry went by land to the Coll de Ballaguer, and were embarked there.

Q. The question is, whether they did not remain there several days?

A. Yes.

Lieut.-Gen. Porter. Without molestation?

A. I did not hear of any attack there—there was a corps in front of General McKenzie's division; there might be skirmishing or something of that sort, but nothing material—there were a few shot fired sometimes from the fort.

Rear Ad. Sir B. Hollowell. Do you know if we had any ships stationed off the Coll de Ballaguer, at the time Suchet passed, or did Captain A dam, hearing that Suchet was passing, get under weigh from Salou Bay, and stop his further proceeding?

Judge Advocate. I do not apprehend that is admissible—that is a subsequent fact.

Lieut.-Gen. Montresor. That does not appear to be evidence.

Rear Ad. Sir B. Hollowell. I merely put it because he just mentioned ships and gun-boats, to remove any misapprehension upon that subject.

A. I do not know the name of the ship, I only know that men and horses were killed.

Rear Ad. Sir B. Hollowell. She stopped them when she went up, and brought Suchet's coach off, and a number of things, in consequence of her fire operating upon them, but I am quite satisfied. My next question he can answer from his own knowledge, I have no doubt;—Do you remember, after Suchet's army had passed the Coll de Ballaguer, when we had no troops or fort there, seeing a road which Suchet had been obliged to cut during the night when he was interrupted by the fire of the Invincible? As Sir John Murray has asked whether the army could pass, notwithstanding the fire of the Invincible, perhaps this is admissible—it is in consequence of that question, I ask this.

A. I did see such a road, which I was told General Suchet had cut where the road was most exposed; and was told it was in consequence of his not being able to pass the high-road.

Judge Advocate. The Court see the ground upon which this is admitted, independent of the objections to the former; it is in consequence of questions by Sir John Murray.

Lieut.-Gen. Sir J. Murray. There could be no objection to that question, on my part; it only proves that a French army can cut roads.

Rear Ad. Sir B. Hollowell. This also arises out of Sir John Murray's questions, to shew there was no danger of their coming by that road. Do you know, that during the

time we embarked from Tarragona, the Invincible, the Brune; the Thames, and several transports, were stationed at Ballaguer, for the protection of the road, and that we also occupied the fort which commands the high road?

A. I know we occupied the fort, and I know there were ships there, but I am not certain of the names of the ships.

Q. Do you know if we had a signal post on Cape Salou to communicate with ships to the westward?

A. I dare say there was; but it is not in my recollection.

Judge Advocate. As Sir John Murray cannot legally put any other question, he has requested permission that this question may be put in the name of the Court:—Do you know that the cavalry and infantry remained unmolested after their arrival at the Coll de Ballaguer, and when did the skirmishing commence which you have mentioned?

General Harris. There cannot be any objection to the question.

A. It was not my intention to assert positively that there was skirmishing; I intended to say that there might be some slight skirmishing, but that there was no affair of any consequence. I saw shot fired sometimes from the fort; I am not prepared to assert positively, that there was a skirmish, but I am sure there was no affair of any importance. The ships now and then fired at some French that were in sight of us—there might have been skirmishing, but I do not mean to assert that there was.

Rear Admiral Sir Benjamin Hallowell. Mr. Judge Advocate, if that question is admitted, it will lead me to ask the indulgence of the Court to put another, to prove that there never was any firing to the eastward of Ballaguer. Our troops used to go out and look for them to the eastward. I must be allowed to put a question, to prove that there was no firing to the eastward of Ballaguer.

Lieut. Gen. Sir John Murray. If the Court please I will withdraw the question, to save all trouble about it. I can prove the fact to which the question refers.

Lieut. Gen. John Mc Kenzie sworn.

Examined by Rear Admiral Sir Ben. Hallowell.

Q. Did you command a division of the army serving under Sir John Murray, in Catalonia, in June, 1813?

A. I did.

Q. Did you receive any orders to spike the guns in the batteries, on the 12th of June, 1813? If so, at what time, and from whom?

A. I received that order in General Donkin's name, at, I think, a quarter before ten o'clock.

Q. Do you recollect the person who brought you the order?

A. Yes, perfectly, Lieut. Drew, a Lieut. in the 27th regiment, and acting Brigade Quarter Master of one of the brigades of my division.

Q. As you are acquainted with the different roads leading from Villa Franca to Tarragona on one side, and the different roads also from Perillo to Tarragona on the other, was it possible for an enemy, while we occupied the Coll de Ballaguer to the westward, and commanded the road by Torradembara, by our naval force, to the eastward, to have prevented our taking away our guns and stores of every kind, when we raised the siege of Tarragona?

Judge Advocate. That, you observe, is a question of opinion, and you will answer it as such.

A. No, I do not think that, during the time the army was there, there appeared to be any chance of the enemy's interrupting the embarkation of guns or stores.

Q. Do you know of any force of the enemy appearing to the eastward of Ballaguer before, or even as late as, the 16th of June, I mean in a body, I do not mean a little skirmishing party?

A. There was a force, I do not recollect the exact day, but, I think, on or before the 16th, a body did make its appearance.

Q. To the eastward of Ballaguer? I know that force was all to the westward.

Judge Advocate. That conversation with the Witness is irregular.

Rear Ad. Sir B. Hallowell. I beg pardon.

A. I must beg leave to ask, for I may not recollect exactly the points of the compass and position of the towns.

Q. I mean between Ballaguer and Tarragona.

A. That question I can answer most distinctly. I never heard of any force there before the 16th, certainly.

Rear A. Sir B. Hallowell. I will amend the question. Do you know of any force of the enemy appearing between Ballaguer and Tarragona, before, or even so late as, the 16th of June?

A. I never knew of any force on that side, except a force which had entered Bandillos, against which I was sent with a small body of Infantry, by Sir John Murray. I think I

was ordered to take charge of the Picquets on the right, by Sir John Murray, on the 13th. I am not very certain as to the date, but I think the 13th or 14th; and I think that, on the night of the 15th, I was in the village of Bandillos, but I am not very certain as to the precise date; there can be only the difference of a part of a day, certainly—if I may refer to my minutes I can say.

Judge Advocate. You may refer to any minutes made at the time.

General Mc Kenzie referred to his Minutes.

A. I find it was on the night of the 16th—on the 15th I was in Masdaroma, and the 16th, at night, in Bandillos, from whence I was ordered to fall back to the place of embarkation. I mean of course to state, that the enemy had retired from the village before I entered it.

Q. Do you know of any cause whatever, that could have made it necessary to have raised the siege in the manner in which it was done?

A. I know of none but what was told me by Sir John Murray, that a force of the enemy had arrived at Villa Franca.

Q. Do you know if there was a great quantity of beef, pork, flour, bread, spirits, and forage, left behind at Tarragona when the troops embarked on the 12th?

A. The division under my orders, I think, commenced embarkation about two o'clock—the embarkation was very soon over indeed. I did not myself go on board until after dark, and at that time there was a considerable quantity of provisions of different kinds left behind on the beach. I even found fault with the Commissary myself for refusing to take charge of some part of the stores which were then upon the beach—I believe it was a quantity of flour. I only give that to shew how I came to be on the beach at that late hour in the evening, and to see the stores.

Q. Could an army march, in one day, from Villa Franca to Tarragona with such an equipment, as could oppose the British army with any prospect of success?

A. I do not think the distance would be any impediment.

Rear Ad. Sir B. Hallowell. I would alter that question—could the army which was reported to be at Villa Franca?

Judge Advocate. The amount of the force does not appear.

Rear Ad. Sir B. Hallowell. I believe Sir John Murray's public letter states it to be 8000 men.

Judge Advocate. You might put the question on a supposition of that number.

Rear Ad. Sir B. Hallowell. Could an army of 8000 men

march in one day from Villa Franca to Tarragona, and with such an equipment as could oppose the British army with any prospect of success?

A. If not opposed upon its march, the distance, I should conceive, not at all beyond the powers of an army. I have repeatedly marched that road, particularly from Vendrills to Villa Franca, I dare say five or six different times, and the whole distance, I believe, is not more than three and twenty miles.

Judge Advocate. There is another part of the question—
“and with such an equipment?”

A. If not opposed upon the road, certainly.

Rear Ad. Sir B. Hallowell. With such an equipment?

A. Certainly, as far as my opinion goes. I have repeatedly marched a large part of my division one part of the way. Vendrills is about half way, and I should not conceive it very hard work for a body of 8000 to march in a day.

Judge Advocate. You had better put another question if you wish a further explanation.

Rear Ad. Sir B. Hallowell. Such a force as could oppose the British army that was then before Tarragona. General Mc Kenzie knows what the force of that army was.

Judge Advocate. The latter part of the question is, such an army passing as could oppose, with a prospect of success, the British army.

A. I think within a day they could not. I should suppose any General Officer would be glad to give his men a little rest, and I think it would be very hard work to march and attack within the 24 hours; but as to their marching that distance there would be no difficulty in that, certainly.

Lieut.-Gen. Sir John Murray. I am very anxious that the answer should be taken down as it is given.

The Judge Advocate read over his note containing the substance of the answer.

Rear Ad. Sir B. Hallowell. Could an enemy's force consisting of 8000 men, after a march from Villa Franca to Tarragona in one day, have attacked the Allied army which was then before Tarragona, under the command of Sir John Murray, on the 12th of June, with any prospect of success?

A. I should conceive the success of the French force, attacking the army in such a case, would have been very doubtful. I should have rather expected the most brilliant success on the part of the British—the state of the British army was so complete.

Adjourned to to-morrow morning, ten o'clock.

FIFTH DAY.

Friday, 20th January, 1815.

The Court met pursuant to Adjournment.

Lieut. Gen. Sir John Murray. Mr. President, There is a circumstance which occurred yesterday, which I allowed to pass unnoticed, that the proceedings of the Court might not be interrupted, but upon which, I desire to receive the instructions of the Court. The Court will recollect that a paper unsigned was tendered for reception, I requested to see that paper, that I might know whether it was a paper I could properly object to or not. The paper was handed to me by the Judge Advocate, one of my friends on this occasion happened to be looking at it, when Admiral Hallowell desired I would not show it to those persons about me. I should wish to know whether I have a right to see any paper produced, and if so whether I may consult those friends who assist me?

Judge Advocate. The moment it is determined that any paper is proper to be produced as evidence, you and your friends have a right to look at it. The objection there was on the ground of the paper not being admitted, and that paper was rejected.

Lieut. Gen. Sir John Murray. I might wish to shew it to my friends to know whether I might make any objection to it, or admit it.

Judge Advocate. I should conceive till it was determined that it should be received there could be no right on the part of Sir John Murray, or his friends to see it.

Rear. Ad. Sir B. Hallowell. The only objection I had to Sir John Murray's shewing it was, that the Court were at that time considering whether they should receive it or not, and till it was admitted I did not conceive that Sir John Murray or his friends had a right to take a minute of it, there is not a paper I have, that I have any objection to Sir John Murray's seeing.

Lieutenant General John M^c Kenzie called in again.

The minutes of yesterday's examination were read over to the witness.

Lieut. Gen. M^c Kenzie. Upon further recollection I think I left Bandillos the evening of the 16th, that I was not

there during the night. I beg pardon for any apparent confusion as to dates, but the original notes I took of the circumstance I was robbed of, with my desk.

Gen. Earl Ludlow. It appears perfectly immaterial.

Lieut. Gen. Sir John Murray. Here is another date, perhaps I can call to the General's recollection, that it must have been on the 14th you had taken the command of the picquets. The siege was raised on the 12th, and it must have been on the 14th, on your passage to the Coll de Ballaquer, that you took the command of the picquets.

A. I have said the 13th or the 14th. I think it was most probably the 14th; and, perhaps, Sir John, you may be able to correct me as to other dates, which the loss of my papers puts it out of my power to give with accuracy.

Examined by Rear Admiral Sir B. Hallowell.

Q. If the enemy had been advancing in sufficient force from the westward, to have obliged us to raise the siege in the manner we did, on the 12th, would not the cavalry and artillery have been exposed to greater danger, by sending them to the Coll de Ballaquer?

A. I think it possible there might have been some risk—it would enter into detail if I went further. I merely give that as an opinion.

Rear Admiral Sir B. Hallowell. I do not think that question is answered fully, because at the time we were retreating in that hasty manner, we were leaving our guns behind—the pressure was thought so great upon us. Whether in that case sending cavalry and artillery to the westward would not have exposed them to danger.

A. I think I can reply to that by giving a more full answer to the question. Previous to the guns and cavalry being sent off, I was directed to send the right wing of the 27th regiment, to cover their march, which, at that time, was supposed to be a sufficient force.

Q. Supposing the number of the enemy to have been 8000, as Sir John Murray has stated, at Villa Franca, could they (General Copons being stationed at Torradembara with the Spanish army) have arrived at Tarragona so as either to have surprized us, or, with any prospect of success, interrupted any measure Sir John Murray meant to pursue?

A. I think they could not have interrupted the siege; as to any measures Sir John meant to pursue, I really am not acquainted with them; but as to the siege I should say no. From Torradembara to Tarragona was about seven miles.

of extremely strong ground indeed, I may say it was a continued defile almost the whole way.

Q. Did you, on the 12th of June, 1813, give it as your decided opinion to Sir John Murray, that there was no occasion to raise the siege of Tarragona at that time?

Judge-Advocate. The question is not whether it is your opinion now, but whether you gave it as your opinion at the time referred to by the question.

A. I did take the liberty of suggesting to Sir John Murray at that time, the propriety of attacking De Caen's force, then supposed to be at Villa Franca.

Cross-examined by Lieut. Gen. Sir John Murray.

Q. You have said that, with General Copons at Torredembarra, 8000 men under General De Caen, could not have interrupted the siege of Tarragona. Do you know that, in spite of General Copons, the French army from Barcelona relieved the blockade at the Coll de Ballaguer a very few weeks before?

A. I am not acquainted sufficiently with the circumstances of the campaign to answer the question, but I was always given to understand, that General Copons had himself from 7 to 8000 men, and that they were esteemed some of the best troops in Spain.

Q. Did not the orders for the re-embarkation of your division reach you regularly, and through the regular channel?

A. I should beg leave to ask at what period, for I embarked and disembarked.

Q. Did not the order for this re-embarkation of your division reach you regularly, and through the regular channel on the 12th of June?

A. I did receive the order, I believe, through the regular channel, but who the person was, who delivered me the order, I do not recollect.

Q. Did not your division march down to the beach regularly at that embarkation?

A. Certainly, with the exception of the right wing of the 27th, which, I have stated, was detached by a special order from Sir John Murray to me, to accompany and protect the guns; the posts which my division occupied close to the walls of Tarragona were withdrawn, and relieved, I think, about one o'clock in the day.

President. They were withdrawn, I suppose, not relieved?

A. They were relieved also by a detachment of General Clinton's division.

Q. Did it not embark without the loss of a man or the smallest proportion of its regimental baggage?

A. It never disembarked the regimental baggage, individual baggage might have been disembarked, but regimental baggage none. I believe no loss of any description whatever occurred—none was ever reported to me, no men, certainly; the beach was quite smooth, and there was no hurry in going in, for the men were made to take off their shoes and gaiters in going into the boats. I think it was a fine beach, the embarkation was conducted with the greatest regularity—there was, of course, the greatest celerity in putting the men into the boats.

Q. You have said that an order, in the name of the Quarter Master General, was brought to you by Lieutenant Drew, at a quarter before 10 o'clock in the morning of the 12th of June, to spike the guns in the batteries, what were the words of that order to the best of your memory?

A. The order was verbally sent to me, not in writing, and was to spike the guns in the different batteries on the line which my division occupied. I make that distinction because General Clinton's division had batteries on their line, and the order to me respected the guns in the batteries on the line which my division occupied.

Q. You are requested to state the position of the division under your command on the morning of the 12th of June?

A. It occupied a line parallel to the Francoli river, distant about a mile from the town of Tarragona; but had its advanced picquets, its picquets of reserve, and picquets of support, close to Tarragona. I had a picquet close into the town; I suppose not 400 yards from it, in the rear of that picquet, a picquet of support, and a reserve of a battalion on duty always day and night. I think the reserve was within about 600 yards of the town, the advanced picquets within about 400 yards, and their sentries within less.

Q. What steps did you take on the receipt of the order to spike the guns?

A. I did not give the order to the officers in the battery immediately on having received it from Lieutenant Drew, but I soon afterwards gave directions, that they should be spiked in obedience to the order I had received.

Q. Had General Clinton's division passed the batteries when the guns were spiked?

A. I really cannot answer that question, I really do not know that they had passed the batteries—they must have passed the batteries, of course, before they got to the beach.

I take for granted they must have passed at that time, but I was on board at that time, and what passed on shore after the embarkation of my own division, I really cannot say.

Judge Advocate. I think it had better be left upon the first answer; as he was on board at the time, the Court can as well draw the conclusion as the witness.

Lieut. Gen. Sir John Murray. I beg leave to say, that the ascertaining this point is of the utmost consequence, for I wish to prove, and I hope I shall be able to prove, that the order given by me, relative to the spiking of the guns, was contingent; the order must have been delivered to General Mc Kenzie in terms in which it was never issued. It is, therefore, of great importance to ascertain whether the guns were spiked before the circumstance, on which I had ordered it to take place, had taken place; it was contingent on General Clinton's having passed the batteries, if they were spiked before that, it is quite clear that was a mistake which is not chargeable upon me.

Judge Advocate. It is perfectly competent to Sir John Murray, to prove that by some person who knows it; you may press the witness, as to the precise terms of the message delivered to him.

Lieut.-Gen. Sir John Murray. In the order delivered to you, by Lieutenant Drew, was not the spiking of the guns made to depend upon a contingent circumstance, and if so, what was that circumstance?

A. No, I received the order pointedly, and directly, to spike the guns; besides, it could not have been otherwise, because I was on board myself when General Clinton's division passed the guns.

Gen. Sir George Beckwith. You believe so?

A. It must have been so, for I was on board before they moved; it is impossible that I could know the guns were spiked after I myself was on board; General Clinton's division was the covering division of the army, so far as being the last.

Lieut.-Gen. Sir John Murray. At what hour did you order the guns to be spiked?

A. I do not recollect exactly the hour, but it must have been before the hour of embarkation, I should think it must have been about one o'clock, at which time General Clinton's division took up the ground I occupied; the order was given to me verbally, and I repeated it afterwards to the officers, I cannot positively say when the guns were spiked, I embarked immediately afterwards.

Q. You have said, that I ordered you to take charge of

the right Picquet on the 13th or 14th; when you assumed that Command, what number of the enemy was in your front?

A. I did not know until the following day what force of the enemy had collected at Bandillos, and the information I afterwards got on that subject was direct from Sir John Murray within a mile and a half I believe of Bandillos, and if I can trust my recollection. I think Sir John Murray told me there were from 5 to 6000.

Q. At what distance in front of Bandillos, had you reason to believe the enemy were on the night of the 14th of June?

A. The enemy had strong Picquets at Masdaroma, I think distant about 3 miles, or it may be more from Bandillos, with a line of picquets, occupying the ridge of a woody hill within a few hundred yards of my advanced posts.

Q. Where were your advanced posts, during the night of the 14th?

A. They occupied a narrow Pass, between Masdaroma and Bandillos, where the principal French force lay, I think about half, or a little more than half way between those two places.

Rear Admiral Sir Benjamin Hallowell. Mr. President, as these questions have been admitted on the part of Sir John Murray, and relate to transactions subsequent to the 12th of June, I hope I may be allowed the same indulgence to question my witnesses as to transactions, which took place at the Coll de Ballaguer.

Judge Advocate. I was afraid, before, Sir Benjamin Hallowell, you did not understand the ground of the decision of the Court. They have not excluded any thing subsequent, supposing you can connect it with the subject of the abandonment of the siege. The questions you put related to acts of indecision on a totally different subject of enquiry. Any thing you can shew as to the necessity or not of abandoning the siege, will be admitted, whether before or since.

Rear Adm. Sir B. Hallowell. I beg to submit to the Court, whether any of the questions now put relate at all to the raising the siege of Tarragona, and whether they do not relate to transactions which took place subsequently. It is in evidence that that army appeared only on the 14th, or 15th, and were not there at the time Sir John Murray raised the siege. I leave it to their consideration, whether,

if these questions are admitted, I may not be at liberty to pursue the line of examination in which I was stopped.

President. I have not been able to collect the opinion of the Court, therefore I can only give my own. It appears to me, these are all leading questions to be used in the defence; and, by way of shewing the numbers of the enemy that had been in the neighbourhood of Tarragona, which, we may suppose, was the cause operating upon the General's mind for the evacuation of it.—Now, I conceive them to bear upon the question immediately, on the Charge as to the quitting Tarragona. That is the view I take of it. If that should be the view the Court take of it, it certainly does not quite correspond with the Admiral's desire. If it is necessary, I will clear the Court, and take the sense of the Court upon it.

Rear Ad. Sir B. Hallowell. With great respect to the Court, I beg to submit, that there is not one of those transactions which have been examined now, that proves that the enemy was, at the time of the 12th, so near to Ballaguer, or to Tarragona, or even had approached Ballaguer, so near as to oblige us to raise the siege in the precipitate manner we did, abandoning our guns to the enemy.

President. It certainly does not prove that; but the question is, how far it may be useful towards proving that when the prisoner comes upon his defence. If I am wrong, the Court will set me right.

Judge Advocate. I will just state a question of your own, Admiral Hallowell, which was admitted, after consideration, precisely on the same ground, namely, as to the appearance of 2000 men on the 14th, on the other side, as tending to prove, that all who were seen coming that way were 2000 men; and, upon the same ground, these questions are admitted to shew, that only the next day after part of the army embarked, those were at Bandillos, and in what force they were.

Rear Ad. Sir B. Hallowell. I only feel it my duty to submit this to the Court. I shall submit with great respect to their decision.

President. The reason the Court objected to the questions you put was, that they considered them as wholly unconnected with the Charge; that is, that the matter to which they related, formed no part of the accusation mentioned in the Charge. It was upon that ground, and that only, that the Court rejected them, and not from any other

reason. The Court would be very ready to hear any questions put that bear upon the Charge.

Lieut.-Gen. Sir John Murray. May I be allowed to say, that the end I proposed to myself, in putting these questions, is exactly that which is supposed by the Court. I do not pretend to say that the force was there upon the 12th, but I wish to shew that I foresaw, that the force would be there on the 14th, that it actually was there upon the 14th, 15th, and 16th; and it, therefore, becomes extremely necessary for my defence, to establish that I did not take a false view of the subject.

Judge Advocate. If any Member of the Court wishes the Court to be cleared he will say so.

President. I have only mentioned my own opinion; I should wish to know whether the Members of the Court assent?

Judge Advocate. I should think if the Court is cleared, it should be when a question is put by the Admiral, and objected to.

Rear Ad. Sir B. Hallowell. I am perfectly satisfied with the opinion of the Court.

Judge Advocate. You will tender any question you conceive to be material, and then the Court will decide upon it regularly.

Lieut.-Gen. Sir J. Murray. Do you recollect my arriving at your post on the morning of the 15th, and our advancing nearly to Bandillos to a spot from whence you saw the enemy's force?

A. I do; on that spot were my picquets of reserve.

Q. On our advance through the Pass, do you remember seeing the marks of considerable bivouacs of the enemy?

A. Without doubt there were; if I understand this question it respects the Valley of Bandillos.

Q. I refer to the road where the troops marched, and where we halted particularly.

A. The body of Infantry under my orders passed over the ground, and the enemy abandoned the ground, in consequence of a movement made on the right flank by a detachment of my picquets, at a very early hour. I think on the morning of the 14th.

Q. Of what numbers did you then calculate the enemy's force to consist?

A. It is impossible for me to give any just information upon that subject, as the greater part of the enemy's force in the direction of Bandillos occupied the village, and a

woody ridge in the centre of the Valley, and almost the whole of the inhabitants had left their houses; the only Spaniards I met with were, I believe, sent from the French cantonments to the ground I occupied, and they were there detained by me, and their account was by no means satisfactory.

Q. Do you suppose, from what you did see, that it amounted to 3000 men?

A. They could not be less than 3000 men.

Rear. Ad. Sir B. Hallowell. I believe Sir John Murray has admitted it was the 14th he went to Bandillos?

Lieut. Gen. Sir John Murray. No, I beg pardon, I have said it was the 15th.

Rear Ad. Sir B. Hallowell. I am obliged to you, that is so much more in my favour.

Lieut. Gen. Sir John Murray. I am quite aware that I ought to apologize to the Court for detaining General Mc Kenzie so long, but I do it with a view to save time ultimately, as I must have called him hereafter to prove these facts.

President. The Court are desirous of hearing every thing which relates to the subject, and I have no doubt their patience will last as long as the occasion requires.

Lieut. Gen. Sir John Murray. You have said, that if the enemy from Villa Franca to the amount of 8000 men had attacked the Allied army, you should have expected from the complete state of that army the most brilliant success, what was the force of the Allied army on or about the 12th of June?

A. That question as to the force of the Allied army I cannot answer, I do not pretend to know the exact force.

Q. How was the Allied army composed?

A. It was composed of British, Sicilians, Germans, and Spaniards, as far as I recollect.

Q. What was the proportion of British and Germans?

A. That is a question I cannot precisely answer; I can relate to the Court the corps under my immediate orders, but I should, perhaps, not state precisely any thing more than that I could not state it generally.

Lieut. Gen. Sir J. Murray. I shall be quite satisfied with General Mc Kenzie's general statement, I am satisfied he could not state the numbers precisely.

A. I can tell what proportion of Foreigners or British, I had in my own division, to a certainty.

Judge Advocate. I take it, Sir John Murray, it would not be satisfactory to know the number of each division?

Lieut. Gen. Sir John Murray. No, certainly not, the General has stated the prospect of the most brilliant success, and has founded that prospect upon the state of the Allied army. I wish to know, therefore, of what the Allied army was composed? All these questions will be material in my defence, and if I can now get an answer to them, it will save trouble hereafter.

A. My own division consisted of the first battalion of the 10th, the first battalion of the 27th, the first battalion of the 81st, and a regiment of Italians, with a battalion called Roll Dillon, made up of two regiments De Roll and Dillons; *Lieut. Gen. Clinton's* division consisted of the first battalion of the 58th, and the 4th German Legion, and *General Whittingham's* division consisted of Spaniards. The advance of the army, under Colonel Adam, consisted of the second battalion of the 27th, the Calabrese light corps, and the second Italian regiment, with, I think, a company of rifleman, called Roll's rifle company, to which I add the Spanish army of General Copons, consisting, as I have always understood, of from seven to eight thousand men, or, I may say, full 8000 men, who were, without doubt, among the best Spanish troops. I have already stated to the Court, that the ground on which it was probable an action would take place, had the division under General De Caen advanced from Villa Franca for the relief of Tarragona, was extremely strong.

Lieut.-Gen. The Hon. Sir Edward Paget. In point of fact we are just as wise, as when this question was first put, for to know any thing at all, we must know the numbers, so that this is all time thrown away.

Lieut.-Gen. Sir John Murray. May I be allowed to correct one error of the General's? There are two Sicilian regiments in General Clinton's division which he has forgotten.

A. Yes, there were.

Lieut.-Gen. Sir John Murray. And that General Whittingham's division was not under his own command, but under General Clinton's.

General Earl Ludlow. We have not the general number of the arm; this is no answer to the question.

Lieut.-Gen. Sir John Murray. I should wish the opinion of the Court, whether the latter part, relative to the position, should stand upon the minutes, for it will give rise to some other questions?

President. The same statement is upon our minutes a great while ago, therefore, it is of no consequence.

Judge Advocate. It is in precisely the same words, I believe, before.

Lieut.-Gen. Sir John Murray. What do you conceive in a general way, to have been the effective strength of the whole Allied army on, or about the 12th of June?

A. I never heard the effective force of the whole Allied army reckoned at less than from eighteen to nineteen thousand men.

Q. What did you presume, in a general way, was the proportion of British and Germans in those eighteen or nineteen thousand men?

A. To that I cannot make so distinct an answer as probably would satisfy the Court; we always looked upon the Germans as good as any British troops whatever, and certainly the battalion under my orders was a remarkably fine battalion.

Lieut.-Gen. Sir John Murray. I mean to ask the proportion of British and Germans together; I hope General Mc Kenzie understands I include the Germans with the British, for I certainly consider them as good as any British whatever?

A. I should imagine, but really, when I say so, I do not know the strength of some of the battalions, I should suppose, generally speaking, the British, including the German battalion, could not be less than 5000 men; some of the corps were so detached from me, that I cannot speak to their number with any accuracy.

Lieut.-General Sir John Murray. That is perfectly sufficient.

A. I wish to add; consisting of troops in the highest possible state of discipline and equipment.

General Earl Ludlow. That does not form any part of the answer to the question.

Judge Advocate. Strictly; the witness should confine himself to the question; if any thing more is wished, a fresh question should be put; but the witness conceives this bears upon the matter to which he is asked.

Lieut.-Gen. Sir John Murray. It is matter of great gratification to me, to hear a man of General Mc Kenzie's character, give so good an account of the army under my command. Of this general force of 18 or 19,000 men, had I determined on giving battle to the enemy, who was advancing from Villa Franca, what proportion would have

been required for continuing the siege, and containing the garrison at Tarragona, taking the strength of that garrison at 1600 men?

A. That is a subject I have never thought upon; I will answer it directly to the best of my knowledge; I think that any one British regiment, with two Spanish or Sicilian battalions, would have been perfectly sufficient.

Lieut.-Gen. Sir John Murray. That does not specify the numbers.

A. The British generally consisted of from 700 to 750, except the 81st, which was 960. The Sicilian battalions, I suppose, might be from 5 to 600 each.

General Harris. Is that rank and file?

A. Yes.

Lieut.-Gen. Sir John Murray. Do you mean to say that this force, consisting of from eighteen to nineteen hundred men, would have been sufficient to contain a garrison of 1600 men, and to carry on the siege of the fortress of Tarragona?

General Harris. What is meant by contain?

Lieut.-Gen. Sir John Murray. To contain within the walls.

A. I think that number would have been sufficient to preserve the works that already had been erected before the town, which, I conceive, in that case, to have been all that would have been necessary.

Q. How would you have disposed of the 1900 men, to contain 1600 men within the walls, as it would have been necessary to guard the works on the one side, and to prevent a sortie in the rear of the army on the other?

A. That is a question of too great an extent for me to answer at the present moment.

Judge Advocate. All these questions are general.

A. That is a question of too great extent, and comprehends too many points for me to be able to answer it at this moment.

Lieut.-Gen. Sir John Murray. What force would be required at the Coll de Ballaguer, to observe the different roads on that side, supposing information to have been received, that Marshal Suchet, with upwards of 12,000 men, was then in full march to compel us to raise the siege?

A. That is a question I cannot answer directly.

Lieut.-Gen. Sir John Murray. I only wish your opinion.

A. I cannot give an opinion upon it; it is a subject I

never thought of it is a question of great extent, and I must decline giving an opinion upon it in this manner.

Q. Would not a very considerable force at least have been requisite ?

A. Considering the situation of Bandillos, from which one of the roads ran, I should conceive it would require a considerable force ; Bandillos is situate in a deep valley, and surrounded by extremely high ground ; but the road leading to it is extremely bad, insomuch that the French army brought no cannon that way, nor do I believe it to have been practicable to have done so.

Q. Are there not several other roads besides that which passes by Bandillos, from the Plain of Tarragona, to the Plain of the Ebro, and how many do you know of ?

A. I do not know of any road leading immediately from that part of the Ebro in the vicinity of Tortosa, except that by Ballaguer, which is a good road, by which cannon may be brought, that passes through Bandillos and by Mont Blanc, at the same time that I have answered that question, there may be other roads which I do not know of, but those are the great roads that I am acquainted with.

Q. You say you know of no other roads except those by Bandillos, Ballaguer, and Mont Blanc, but if such roads do exist, would it not be necessary to guard such roads with detachments ?

A. That is, if there were troops in motion on these roads, certainly ; but I did not know of any at the time of the siege of Tarragona, I know of no troops being near it.

Q. Would Marshal Suchet, with the force before mentioned, require cannon to raise the blockade of Tarragona, formed by only 1900 men ?

A. If this be in allusion to the 12,000, I should think not. In military operations, certainly, he would necessarily have taken the batteries in reverse.

Q. What force would have been required to observe the roads from Lerida and Arragon, by the Coll de Mont Blanc and Valles ?

A. It is impossible for me to answer that question, there are more Passes leading from Mont Blanc to the Plain of Tarragona ; I do not know the number that might have been necessary, from curiosity I have gone over that country.

Q. Deducting then the number necessary for the blockade, for observing the corps of Marshal Suchet on the different roads on which he might advance, and covering the road

from Perille, and from Arragon, what would be the probable amount of the Allied army left to oppose the enemy, with 8000 men on the different roads leading from Villa Franca?

A. It is impossible for me to answer such a question, that might embrace a field of some hundred miles.

Lieut.-Gen. Sir John Murray. I hope the Court perceives my object in these questions; it stands at present upon the evidence of General Mc Kenzie, that brilliant successes were to be expected; I wish to shew by these questions, that this opinion has been given rather unguardedly, and that those brilliant successes he has told us we were to expect, really could not be looked for at all; I have attempted to shew that, by proving that there could have remained in the face of those 8000 men, as many as might have been expected out of such a body as eighteen or nineteen thousand men.

Lieut.-Gen. Mc Kenzie. Might I be allowed to make one observation?

President. No, I think not, unless it is part of your answer.

Lieut.-Gen. Mc Kenzie. There is one remark I would wish to make as connected with my answer, which is, that at the time I asserted my opinion as to the brilliant success to be expected to attend the attack on De Caen, which Sir John has twice repeated, and the possibility of containing the garrison, I had never heard that there was a single man upon those roads which Sir John alludes to.

Lieut.-Gen. Sir J. Murray. I am perfectly satisfied; that prevents the necessity of putting any further questions upon this subject. Would it not have been in the power of General De Caen, supposing he had advanced on the Taragona road from Villa Franca, to have either given or declined battle as he pleased, had he found the Allied army in position?

A. He might by taking a different road—he might either have gone round by the Coll de Sentestina, or returned by the road by which he had advanced.

Q. Do you recollect coming to General Murray's quarters on the morning of the 12th, with Colonel Adam and General Donkin?

A. I do.

Q. Will you be pleased to state what passed on that occasion?

A. In a conversation with Colonel, now General Adam,

and General Donkin, and, I think, Colonel Thackeray, of the Engineers, it was proposed that we should jointly state to Sir John Murray, that it was our opinion that a successful attack might be made on General De Caen's division, and, at the same time, either continue the siege, or preserve the works already raised; this was first proposed by General Adam to General Murray, and to which I also presumed to add my opinion at the time, and I think that Sir John Murray's general answer was, that it would not do—I think those were the precise words, as far as I can recollect.

Q. Did Sir John Murray state any reasons for not complying with your proposition?

A. I do not recollect that Sir John Murray stated any reason; indeed, the conversation did not last a sufficient time to have had his reasons fully explained, and he did not do so, as far as I can recollect.

Q. Do you recollect my shewing you a passage in my instructions, after stating some reasons, which seem to have escaped your recollection?

A. I do not recollect Sir John Murray, at that time, shewing me any passage in his instructions; at other times, Sir John Murray did shew me passages in his instructions from Lord Wellington.

Lieut.-Gen. Sir John Murray. My question points to that particular time.

A. I do not recollect it.

Q. Then you cannot recollect the observation from yourself, with which this conversation concluded, namely, "this is unanswerable," or words to that effect?

A. It will not be surprising that I should say so, when Sir John repeated two or three different times, "it will not do;" that is the only answer I can recollect. You may recollect, Sir John, I dare say, that I was only a very short time in the room; I do not recollect having said so.

Re-examined by Rear Admiral Sir B. Hallowell.

Q. At the time Sir John Murray alludes to Tarragona being relieved in spite of Copons' army, was there any British army in Catalonia to support him?

A. I do not understand the period.

Rear Ad. Sir B. Hallowell. If the Court would allow the question to be read to General Mc Kenzie, from which my question arises, it would explain it. Sir John Murray has asked whether he has not known the French force come by, notwithstanding they were opposed by General Copons' army? I wish to prove that there was not at that time a

British regiment in the province--I believe it was the first question put by Sir John Murray to-day.

The first question put by Sir John Murray was read over.

A. As to the period, I am not acquainted with the period to which Sir John alluded.

Lieut.-Gen. Sir John Murray. I am ready to admit that there was no British army there at that time.

Rear Ad. Sir B. Hallowell. Had we any troops in Catalonia before Sir John Murray arrived?

A. No; no British troops certainly.

Q. Was there an enemy to oppose you on your embarkation at Tarragona?

A. No.

Lieut.-Gen. Sir John Murray. I would beg to ask whether that is a question which arises out of my cross examination or not; merely that I may know the rule?

Rear Admiral Sir B. Hallowell. It was in consequence of Sir J. Murray asking whether the army embarked without loss of men. I want to prove that there was no necessity for any loss of men, that there was no enemy.

Lieut.-Gen. Sir John Murray. I have no objection to the question in that view; I did not allude to loss by the enemy; but the regularity of the embarkation.

Rear Admiral Sir B. Hallowell. A stranger would suppose by the question, that the army was embarking under fire of the enemy; as Sir John Murray expected the enemy to arrive at Bandillos on the 15th, which is more than a long day's march from Tarragona, is that a sufficient cause for our raising the siege in the manner we did on the 12th; as Sir John Murray has stated, that he expected the enemy to arrive on the 14th, I wish to know whether that was a sufficient reason for Sir John Murray embarking in the manner we did on the 12th.

Sir John Murray. I beg pardon; but it appears to me that there is a supposition, which I do not admit, namely, that I expected the enemy not to arrive till the 14th.

Rear Admiral Sir B. Hallowell. I have taken it from Sir John Murray's own words, just now, that he expected them on the 14th. In addressing the Court, he said, he expected they might be there on the 14th; if I am wrong, I wish to be told so; but I appeal to the memory of the Court here; I suppose they must have heard it as well as myself, and my question arises from that observation of his.

President. Though one hears this sort of conversation

at the moment, it does not make that impression, which it would if taken down upon the evidence; and I cannot call to mind that Sir John Murray did say that distinctly.

Judge Advocate. Though Sir John Murray may not have said this, Admiral Hallowell has a right to have the question put upon such a supposition, which Sir John Murray may shew did not take place. Sir John Murray may shew it was not expected.

Lieut.-Gen. Sir John Murray. It is not now for me to say whether I expected them sooner or later; but it in no way agrees with the calculations I have made.

Rear Admiral Sir B. Hallowell. If Sir John Murray now asserts that he did not say so, I will withdraw the question.

Judge Advocate. We had better not get into these sort of observations on both sides; but you may ask your question, so as not to include an admission on the part of Sir John Murray.

Rear Admiral Sir B. Hallowell. I will go on with other questions while I frame that. What was the strength of the force under your command in point of numbers at Bandillos on the 15th?

A. I think the British under my command on that occasion, amounted to about 1600 men, that is troops in British pay; they were not all British, and a battalion of Spanish *Caçadores*.

Rear Admiral Sir B. Hallowell. I ask as to the number altogether, not distinguishing?

A. The Spanish *Caçadores* were with me but a few hours, I suppose there were about 1000 of them.

Q. As you have stated that Sir John Murray did inform you on the 15th, that the enemy's troops at Bandillos amounted to five or six thousand men, and that you received that information within a mile and a half of Bandillos, do you think Sir John Murray would have sent you with so small a force if he had known that force of the enemy had arrived there?

Judge Advocate. That is rather more of argument than of question.

A. I cannot distinctly answer that. I first marched with only the British division towards Bandillos.

Judge Advocate. The question is, not what you did, but what you suppose Sir John Murray would have done, if he had known there was such a force there?

A. I will proceed in answering in this manner, if you please. When near Bandillos, I met Sir John Murray. In

conversation with him, it was thought the force was not sufficient to make the intended attack on the French force in the valley; and it was then determined on, that two more battalions should be sent to me, or would be sent; viz. the Spanish Cazadores, and the Grenadiers of O'Reilly; the attack was to have taken place at an early hour in the morning of the 16th (the following morning;) and during the night I received orders to retire to the place of embarkation.

Judge Advocate. That is no answer to the question, there is no objection to this standing upon the minutes.

Rear Admiral Sir B. Hallowell. I meant to state, that I do not consider that an answer to my question.

Judge Advocate. You may draw your inference from that, and give the answer.

A. If I am to give an answer as far as opinion goes, I will do it.

Judge Advocate. When you are asked your opinion, you will give it; if either side wish for the grounds of that opinion they will ask them.

A. I thought it necessary, in justification of my conduct, to state the facts.

General Lord Charles Fitzroy. We have nothing to do with your conduct—that is not the question we are considering at all.

Rear Admiral Sir B. Hallowell. My object in asking that question, is to prove that, until General Mc Kenzie—

President. You will have an opportunity after the whole examination, of making any observations that arise on the different evidence, and the Court will patiently hear all you have to advance upon it; but it would very much interrupt the proceedings, if the Court were to listen to all those observations at the time.

Judge Advocate. The reply upon the evidence will be to be made hereafter.

A. I should suppose, Sir John Murray would not consider 1600 men a sufficient force to drive five or six thousand men out of the valley.

President. That still is not an answer to the question.

A. I believe Sir John Murray himself was of the same opinion when he came to the ground and saw it, for which reason, two battalions were added.

Rear Admiral Sir B. Hallowell. If the enemy had been expected at Bandillos on the 15th, which is more than a long day's march from Tarragona, was that sufficient cause for raising the siege in the manner we did on the 12th?

A. I should conceive not.

Q. Do you think it would have required all the force of the Allied army, 'excepting 1900 men, to have gone out to meet the 8000 men coming from Villa Franca, when Copons' army was altogether at Torradembara and Altufalla in strong position, ready to receive them?

A. That is a question which I cannot positively answer; I can only say, the more were sent, the more absolute the success; but as to whether it was necessary, I cannot say.

The Judge Advocate repeated the question.

A. No, I should think not; certainly the whole.

Rear Admiral Sir B. Hallowell. What would be the difference of time for an army to march from Tortosa to Tarragona, by the Coll de Ballaguer, and by the other roads you have described?

A. I do not exactly know how to answer that.

Rear Admiral Sir B. Hallowell. The Coll de Ballaguer is the straight road; he has described two others by Mont-Blanc and Valles, I wish to know whether they would not be much longer?

A. The march of a French force from Tortosa to the Coll de Ballaguer might be performed in a day, but it is an extremely long march. I should think it would take two days and a half or three days, to go from Tortosa to Tarragona by Ballaguer; and I should suppose by Mont-Blanc not less than four days, certainly; by the third road I mentioned, I think a French force might arrive in the same time as by the Ballaguer road, but it is not properly a military road, no cannon can be brought that road; infantry might go it.

Lieut.-Gen. the Hon. Sir Edward Paget. In your general estimate of the force of the allied army at 18 or 19,000 men, did you include or exclude the corps of General Copons?

A. I included them.

Q. You have said that the enemy retired on the morning of the 14th, in consequence of a movement of your picquets on their right flank. Was it not on the 14th you were first entrusted with the command of that corps?

A. No, I think the evening of the 13th; the evening of the 13th, the enemy appeared beyond Ballaguer; but the notes I took of the movements of that army, when I belonged to it, I have lost, and have merely recollection; therefore, it is very likely I may be wrong as to dates.

Judge Advocate. Did the movement take place later, or did you take the command earlier?

A. I think, on recollection, it was the evening of the 14th, that I was entrusted with the command, but I do not exactly recollect as to the day.

Judge Advocate. Then do you recollect when it was that the enemy retired in consequence of a movement of your picquets?

A. It was the following morning, whenever I took the command.

Lieut.-Gen. Sir John Murray. As General Mc Kenzie has lost his notes, may I be permitted to remind him of the particular dates? I do not know whether it is permitted or not.

President. If General Mc Kenzie requests assistance.

Rear Admiral Sir B. Hallowell. As General Mc Kenzie has stated the force only on supposition, may I be permitted to lay before the Court, the statement of the Allied army, commanded by Lieutenant-General Sir John Murray, Bart. in June, 1813, which was delivered to me by the Deputy-Adjutant General, at the head of the Department?

General Nicholls. It will come regularly from Sir John Murray.

Rear Admiral Sir B. Hallowell. It is only to save the time of the Court, I cannot answer for the accuracy of it, but it is the return made by the Deputy-Adjutant-General.

Lieut.-Gen. Sir John Murray. I shall call the Deputy-Adjutant-General.

President. I understand the Deputy-Adjutant-General is to be called.

Rear Admiral Sir B. Hallowell. He is in Sicily, this return was made by Colonel A'Court.

Lieut.-Gen. Sir John Murray. Colonel Kenah who was at the head of the Department while I was in command, is summoned on my part. Colonel A'Court arrived with Lord W. Bentinck.

Rear Admiral Sir B. Hallowell. I only submit it to the Court for their information.

Judge Advocate. There is no evidence that Col. A'Court was the acting Adjutant-General, nor that this is his return, but as Colonel Kenah will be called as a witness, you will have an opportunity of cross-examining him.

Rear Admiral Sir B. Hallowell. I only wished to justify my assertion, that we ran away from a force which did not require that precipitation.

Lieut.-Gen. Sir John Murray. It is the more necessary, the return signed by Colonel Kenah should be before the Court, for I believe a considerable number of Italians and Sicilians arrived with Lord William Bentinck, and they are probably included in that report.

Judge Advocate. In that view, the paper might deceive the Court, it should come regularly from the officer himself, if Colonel A'Court was here, he might explain that, and make it evidence, but there is no one here who can swear that it is a proper return, or explain any circumstances stated in it.

It was returned to Rear Admiral Hallowell.

Colonel Lord Frederick Bentinck sworn.

Examined by Rear Admiral Sir B. Hallowell.

Q. Did you command the cavalry employed under Sir John Murray in Catalonia, in June 1813?

A. Yes.

Q. Where were you on the 11th, and what troops had you with you?

A. The 11th being the day I believe previous to the raising of the siege of Tarragona, I was in camp before Tarragona with the brigade of cavalry, I had two squadrons of the 20th, and two squadrons of the Brunswick hussars. I might have with me about five or six hundred men in the whole.

Q. Will you relate to the Court what occurred under your own observation from that time to your joining the Commander-in-Chief on the next day?

A. I received an order between nine and ten o'clock, to the best of my recollection, on the morning of the 11th, for the two squadrons of the Brunswick hussars, and the two six-pounders which were attached to my brigade, to march to Altufalla; I marched with them myself, and got there between two and three o'clock that afternoon. About seven or eight o'clock that evening, Sir John Murray, who had ridden to the front, came to my quarters at Altufalla, I asked him if he had any intelligence to communicate to me respecting the movements of the enemy; he replied that he had not, I then asked him if any extraordinary measures of precaution on my part were necessary that evening, or during the night, he replied there were not. Between two and three o'clock in the morning of the 12th, an order was brought me by Lieutenant Peddie, of the Quarter-Master-General's Department, to return to the camp before Tarragona. The troops marched soon after four o'clock,

and I remained behind till near seven, to the best of my recollection, between six and seven o'clock, in order to gain any information that I could. I could not learn from the peasants that the enemy was nearer than Villa Franca; I reached head-quarters between eleven and twelve o'clock, I there found that part of my brigade that had remained there, had been embarked, and that the remainder of the 20th were upon the point of embarkation. I also heard that the guns were ordered to be spiked. No question was asked me respecting any information that I had of the movements of the enemy; soon afterwards I heard Sir John Murray say that he had not given any order to spike the guns, and about the same time, General Donkin gave me an order to stop the re-embarkation of the remainder of the 20th, who had not got on board, and to march with them and the rest of the cavalry, and the two six pounders which had come with me to the Coll de Ballaguer, which order, I carried into execution between two and three o'clock that same afternoon.

Q. Where was the army of Copons' at the time you left Altufalla?

A. I do not know; some Spanish cavalry came into the village of Altufalla about the time that Sir John Murray left me, or a little before, I am not certain which, but I believe it was nothing more than an escort of General Copons', the Spanish cavalry there, consisted of about 100 or 150 men, and they came as an escort to a Spanish Commander-in-Chief, or officer of great rank; I believe it to have been General Copons.

Q. Had you any infantry with you, when on the 12th you marched with the cavalry to Ballaguer?

A. No infantry marched with me, nor do I believe any followed me; when General Donkin gave me the order to march to the Coll de Ballaguer, he told me that probably the troops that remained at Tarragona, or before Tarragona, would be attacked on the beach about five o'clock that evening; he told me also, that I should, probably, be attacked on my march to the Coll de Ballaguer, and that he would send some infantry with me, and, if I remember right, he named the 2d battalion of the 27th; however, as soon as I had fed the horses, and collected the whole of the brigade that had not embarked, I began my march for the Coll de Ballaguer. I am not aware of any being ordered to follow me---I had no directions to wait for any, and I saw none.

Q. Did the artillery arrive at Ballaguer before or after you, and do you remember whether they had any infantry to cover them?

A. The two six-pounders.

Rear Ad. Sir B. Hallowell. I do not allude to those two pieces, but to, I think, fourteen pieces of artillery that went with Captain Gilmore.

A. I know nothing of them.

Cross-examined by Lieutenant General Sir John Murray.

Q. Was not a considerable force of General Copons' army immediately in your front, when I told you that no precautions were necessary beyond your usual vigilance at Altufalla?

A. I cannot answer that question; I had no information as to what force there was in my front, and so I conceived, that when Sir John Murray told me no more than the ordinary precautions were requisite, it was from the circumstance of the enemy being at such a distance, that the enemy were not supposed to be near.

Q. Was the conversation which took place between you and General Donkin, on the 12th of June, relative to the expected presence of the enemy, at five o'clock, on the beach; and the probability of your being attacked in the march to the Coll de Ballaguer, communicated merely as his own opinion, or officially as coming from me?

A. I conceived the conversation from General Donkin, in respect of the presence of the enemy at five o'clock on the beach, and my being attacked in the march to the Coll de Ballaguer, as entirely General Donkin's opinion; he did not make use of Sir John Murray's name in any part of the conversation, to the best of my recollection; indeed, I am certain.

Rear Ad. Sir B. Hallowell. If the Court will give me leave, I will call in Captain Inglefield to put one or two questions to him, it will not take five minutes?

Judge Advocate. I think the most correct way will be for Sir Benjamin Hallowell to put in the question, and then the Court will judge whether it is proper they should put it; but having gone through the examination, he cannot regularly put a question to Captain Inglefield himself.

Rear Admiral Sir B. Hallowell handed in the question.

Judge Advocate. The question Sir Benjamin Hallowell would wish to put, is this---Could the guns and stores have been taken off in the course of the day of the 12th, and

before daylight the next morning; if the guns had been brought down to the beach after dark on the 12th?

Rear Ad. Sir B. Halliwell. That is my only question to Captain Inglefield, and the same question to Captain Bathurst. There is, indeed, another question, respecting the quantity of provisions, which he did not state accurately to the Court the other day.

Judge Advocate. The Court is to be cleared; it will not be opened again for business to-day, it being now three o'clock.

Rear Ad. Sir B. Halliwell. There is only one question I wish to put to Captain Bathurst.

Adjourned to to-morrow morning, ten o'clock.

INDIA

SIXTH DAY.

Saturday, 21st January, 1815.

The Court met pursuant to Adjournment.

Judge Advocate. Previous to the Adjournment yesterday, Sir Benjamin Hallowell proposed to the Court, to call back Captains Bathurst and Inglesfield, in order to submit two questions which he had omitted to put in the former examinations of those witnesses, having declared that he had finished their examination; upon that, General Murray requested of me to know, whether that was usual and regular? I thought it my duty to state, that the Admiral had no right to put such questions at such a period, that his time was gone by; but that if the Court should think fit, having seen the questions, to put those questions for their own information, they were at liberty to do so then, or at any other time, I am now to declare, that under the circumstances of the case, they do not think fit to put those questions; merely from myself, I would state to you, Admiral Hallowell, that the question has been already put, and answered by one of your witnesses before, by Colonel Williamson; he stated, that if he had had the intelligence sooner on the evening of the 11th, every thing would have been got off.

Rear Ad. Sir B. Hallowell. The question put to him was as to getting the things down.

Judge Advocate. And he added, that if they had been got down, with your assistance they would have been got off before the morning; and I would also add, that General Murray has declared his intention of calling one of those witnesses in his defence, so that you then will have an opportunity of asking them either these, or any other questions you think fit.

Lieutenant-General Sir William Clinton, K. G. C. B. sworn.

Examined by Rear Admiral Sir Benjamin Hallowell.

Q. Were you second in command in the army serving in Catalonia, under Sir John Murray, in June, 1813?

A. I was next Senior Officer to Sir John Murray; but in the command of a division.

Q. Did you receive directions from Sir John Murray, on the morning of the 11th of June, to order the Fuerte Reale to be stormed at night, in case he did not return, provided Major Thackeray should be ready?

A. Early in the morning of the 11th, I received orders to go to head-quarters, and my division to be in readiness to march; on arriving at head-quarters, I found Sir John going out, he said to me, that he was going to the river Gaya, to look for a position to meet the enemy, who was advancing from the side of Barcelona; he said to me, that he left me in temporary command of the siege, and added, if Major Thackeray reports the breach of Fuerte Reale to be practicable, let it be stormed.

Q. Did Major Thackeray report that he was ready, and that the breach was practicable, and at what hour did he make that report?

A. Soon after 12 that day, the Chief Engineer reported the breach at Fuerte Reale to be practicable.

Q. Had you any communication with Sir John Murray, on his return to head-quarters, about 8 o'clock on the evening of the 11th, and what was the substance of the communication?

A. Having made all the arrangements at head-quarters, I was going to my post at the Oliva, between 7 and 8 o'clock, when I met an Officer of Sir John Murray's Staff, who told me the Commander of the Forces was on his way to head-quarters, and that, if he had not taken another road, I should probably meet him; I requested that Officer to tell the Commander of the Forces that all the arrangements were made for the attack of Fuerte Reale, and that the signal would be fired at 10 o'clock that night, unless orders were given to the contrary. Going on to my post I met Captain Mills of the 27th regiment, Brigade Major of the first Brigade of my division, whom I requested to go to head-quarters, and acquaint the Commander of the Forces from me, that every thing was prepared for the attack, and that I begged to know, whether it was to go forward; Captain Mills returned to me in half an hour, and brought me word from the Commander of the Forces, that the attack was to be made; having then made every arrangement on the spot, and given directions for the signal's being fired precisely at 10 o'clock, I rode to head-quarters to report to the Commander of the Forces, the details of the attack I had directed, by his order, and to receive his further commands; on my arrival at head-quarters, the Commander of the

Forces told me that the attack must be given up, and that from the information he had of the movements of the enemy, the siege of Tarragona must be abandoned; it being then about half past nine, I observed to the Commander of the Forces, that I apprehended the signal would be fired for the attack, unless he had given orders to stop it, when he acquainted me that he had already countermanded the attack on the *Fuerte Reale*. I then observed to him that the false attack to be made by my division, and by the Spaniards, would, nevertheless, go forwards, on the firing of the signal, when the Commander of the Forces observed, on his part, all the officers immediately attached to him were absent on duty; I then told him that Captain Kesterman, the Assistant-Adjutant-General of my division, was on the spot, if he thought proper to employ him, and by the Commander of the Forces desire, I called Captain Kesterman, and he received orders to go to the *Oliva*, and prevent the firing of the signal, and he arrived just in time to prevent the rockets being fired.

Q. Did you receive any information of the enemy's approach on the morning of the 12th, and in what direction were you led to expect them?

A. By the first order I received on the 12th, I was led to imagine that the Commander of the Forces expected the enemy on [the side of the *Gaya*]; but by a subsequent order——

General Sir George Beckwith. Which side is the *Gaya*?

A. Towards *Barcelona*. By a subsequent order which directed me to proceed, with my division, by the shortest road to head-quarters, avoiding only the fire of the town, I hardly knew on what side I was not to expect the enemy.

Rear Ad. Sir B. Hallowell. Previous to receiving the order which you have just stated to go to head-quarters, had you not received an order to move with six battalions to the support of General *Copons*?

A. I had; to cover a movement to be made by General *Copons'* troops then at *Altufalla*.

Q. Did you receive orders, and at what time, to spike the guns?

A. Without reference to my notes I am afraid I shall not be able to speak with accuracy.

Judge Advocate. They are your own notes?

A. Yes.

Q. Were they made about that period?

A. Yes, at the period some of them, the orders I received on that day.

(General Clinton referred to his notes.)

A. I did receive an order for spiking the guns, and to march with my division to the Beach; I cannot speak to the precise time, but I think it was about ten o'clock in the morning of the 12th.

Q. Was that order countermanded before you had time to carry it into execution?

A. It was countermanded; but not before it might have been carried into execution.

Q. Was it countermanded before it actually was carried into execution?

A. Certainly it was; excepting with respect to the six-gun battery, which was spiked in error.

Q. Had the guns been allowed to have remained in the batteries, and the troops to have remained on shore, would there have been any difficulty in bringing the guns to the breach for embarkation after dark?

A. I apprehend, certainly not; being in the mortar battery about 12 o'clock on that day, when the officer in command of that battery was actively employed in preparing for the evacuation of it, I told him that I would furnish him with a working party of 50 men, to assist him in the operation of removing the ordnance, when that officer observed to me, that with that assistance he would answer for it, there should not be one piece of ordnance in the battery by 10 o'clock that night.

Q. How long did you remain at your post at the Oliva?

A. Until near five o'clock in the afternoon of the 12th.

Q. Do you know of any force of the enemy appearing between Ballaguer and Tarragona, before, or even so late as, the 16th of June?

A. To the best of my recollection, it was on the 15th of June, either the 14th or the 15th.

Rear Admiral Sir Benjamin Hallowell. May I beg to make it the 15th, if the Court please?

Lieut.-Gen. Sir John Murray. I request that the question may be entered as it is put, and the answer as it is given.

Judge Advocate. It does not follow that, because the witness does not recollect the precise day, the question should be altered.

A. I think it was either the 14th or the 15th of June, that the enemy appeared; but, as I have not my minutes of that part of the transaction, I cannot answer accurately. My

notes are at my quarters, if it is an object that I should go for them.

General Clinton was requested to fetch his notes from his quarters.

After a short time the General returned with his notes, and the question was repeated to him.

A. I find, on reference to my notes, that it was not until the 15th of June, as it appears, that the enemy shewed himself; but, I having been myself stationed with the troops, destined to defend the pass of the Coll de Ballaguer, I did not, myself, see the enemy; I had no opportunity of seeing the enemy; who, I understood, to have turned the hills by a mountain road.

Q. Do you know of any cause that could have obliged us to raise the siege, in the precipitate manner we did, and leave our guns, stores, and provisions, behind?

A. Totally uninformed, as I was, of the instructions which the Commander of the Forces might have had for his guidance, or what might have been the information he might have had at the time of the movements or position of the enemy, I can only say, that I know of no reason that could render necessary the endless change of measures, which were to be observed on that ill-fated day. I can hardly imagine any situation of things which could have rendered necessary such proceedings as those of the 12th of June; and, circumstanced as the British force upon the plains of Tarragona, appeared to me to be at that time; possessing, on the one side, Fort Philippe at the Coll de Ballaguer, and having an army of not less than 6000 men, under such officers as Manso and Lauder, on the side of Barcelona, I am clearly of opinion, that the precipitate retreat from before Tarragona on the 12th of June, was not necessary or warranted; and, that the measure of abandoning the siege of Tarragona, in such a way, had all the appearance of a disgraceful flight.

Rear Admiral Sir Benjamin Hallowell. I have no further questions to put to General Clinton; but, as these papers may be necessary in the cross-examination of General Clinton; as I laid before the Court yesterday, a paper signed by Colonel A'Court, which was not admitted, I beg now to lay before them, a statement of the force which Sir John Murray desired me to prepare for the embarkation of, at Alicant, before we embarked on this expedition. It is signed by himself, and contained every man embarked; and, I am ready to make oath, that, in addition to the number of horses he requested

ships for, I embarked more than an hundred more. These papers are signed by Sir John Murray himself. I am ready to make oath, that provision was made for that number.

Judge Advocate. Will you look at these, Sir John Murray, and say whether it is necessary to prove the signature?

Lieut.-Gen. Sir John Murray. I have no doubt they are quite correct; they are my signatures.

Judge Advocate. The Court are aware what these papers are.

Lieut.-Gen. The Hon. Sir Edward Paget. If they are returns, we must look into them; we shall understand them better than by hearing them read.

Judge Advocate. Sir John Murray should have an opportunity of seeing them.

Lieut.-Gen. Sir John Murray. I have no wish to see them; they are requisitions for the number I expected to embark, but I conceive they furnish no proof that that number did embark. I shall lay before the Court the returns from the Adjutant-General, of the number that actually did embark.

Judge Advocate. In the mean time, these are evidence, certainly; the best evidence, undoubtedly, is the return of the number that actually did embark.

President. We shall have time enough to look at these, as they are now in the possession of the Court.

Judge Advocate. They are the best evidence the Admiral can produce. Sir John Murray will put in the returns of the army that actually arrived there, which will be much more satisfactory, certainly.

Cross-examined by Lieut.-Gen. Sir John Murray.

Q. Was the order you received about ten o'clock on the morning of the 12th of June, to spike the guns, unconditional and positive, or coupled with a contingency?

A. No contingency whatever; as far as I can recollect, it was a verbal order.

Q. Could the guns, in the day time, have been brought down to the beach, without being exposed to a considerable fire from the fortress of Tarragona, and in many parts of the road, without being almost enfiladed by that fire?

A. I apprehend not; certainly not.

Q. Were the guns in the six-gun battery actually spiked when you received the counter order?

A. They were not.

Q. What was the error which occasioned the spiking of the guns in the six-gun battery?

A. The circumstance was this—soon after I had received the order for spiking the guns, two officers of artillery came to me, telling me they had brought spikes for destroying the guns, and that they were directed by the commanding officer of artillery, to receive my orders when the guns were to be spiked. Having, at that time, received a number of orders and counter orders, and hoping that there might be a counter order for the spiking of the guns, I directed one of those officers to repair to the mortar battery, and the other to the six-gun battery, and to him who went to the six-gun battery, I observed that I would go to the Oliva, and from the right of that spot, I would make a signal for the spiking of the guns. Some short time after I had received the counter order for spiking the guns, I was standing about a hundred yards to the right of the Oliva, in conversation with an officer, when the enemy, who were always jealous of that point, fired a shot at us, which struck at no great distance from us, when I observed to the officer, that I would thank them for their civility, and I moved forward at the time, four or five paces, to an elevated spot, and from thence saluted the point from whence the shot had been fired. Shortly after, going to the Oliva, and happening to look at the six-gun battery, I observed an unusual bustle, and remarked to Colonel Du Plat, of the 4th German Legion, by whom I was standing, surely it is not possible the officer in that battery can have mistaken what I did just now, for a signal for spiking the guns. Seeing, however, the hurry there still was in the battery, I ran myself, with all speed, to endeavour to stop the destruction of those guns, but I could not arrive in sufficient time to prevent the completion of that destruction.

Lieut.-Gen. the Hon. Sir E. Paget. I suppose you pulled your hat off when you saluted the battery?

A. I did.

Q. (*By the Court*) What was the signal agreed upon for spiking the guns?

A. Taking off my hat from the right of the ruined work at the Oliva.

Q. Were you, at the time you took off your hat, as you have observed, in that situation?

A. Certainly not; the spot agreed upon, was at the right of the old work I just mentioned, and just in rear of the work.

Lieut.-Gen. Sir John Murray. Do you mean to say that

no enemy appeared to the eastward of the Fort of Ballaguer, before the 15th of June?

A. None, that I am aware of; I did not arrive in Ballaguer Bay until the evening of the 14th, and knew nothing on that evening except what was immediately passing in front of the old fort towards the village of Perillo.

Q. Am I to understand, that on the 12th of June, you were unacquainted with my instructions, and what were the strength, position, and movement of the French corps?

A. Clearly; the first I knew of the instructions of the Commander of the Forces, and then partially only, was, when he produced them before a Council of War assembled at Ballaguer on the 17th of June.

Lieut.-Gen. Sir John Murray. I have no more questions to ask General Clinton.

Rear Ad. Sir B. Hallowell. I have no other witness; here are two letters, from Sir John Murray to Sir Edward Pellew, respecting the co-operation in the Bay of Rosas.

Judge Advocate. Those are not signed by Sir John Murray.

Rear Ad. Sir B. Hallowell. They are countersigned by Sir Edward Pellew.

Judge Advocate. I presume you are acquainted with the hand-writing of Sir Edward Pellew?

Rear Ad. Sir B. Hallowell. I am; I can swear to that.

Lieut.-Gen. Sir John Murray. If Admiral Hallowell wishes to prove by those letters that I expected a co-operation on the part of Sir Edward Pellew, I admit it most freely, for I requested it, and I apprehend the Admiral has misunderstood a passage in one of my letters on that subject.

Judge Advocate. Perhaps that admission will save all trouble upon that subject; as the papers are not strictly evidence, perhaps that is the best course to be pursued.

Rear Ad. Sir B. Hallowell. Certainly; I have no objection to withdraw the letters.

Lieut.-Gen. Sir John Murray. I perceived by the Admiral's address, that the Admiral had misunderstood a passage in my letter, which I am happy to set right.

Judge Advocate. Sir John Murray has requested me to state that there is one question he omitted to put to the last witness; this stands on rather different grounds from the application of Admiral Hallowell; there has been no intervening witness, and no re-examination.

Lieut.-Gen. Moutressor. Will not he be called in the defence?

Lieut.-Gen. Sir John Murray Probably, he may.

Judge Advocate. I have seen the question, and think, if it comes at all, it should come now?

General Lord Charles Fitzroy. Of course the Admiral will have an opportunity of cross-examining upon it?

Judge Advocate. Certainly.

Rear Ad. Sir B. Hallowell. I have no objection to the further examination of General Clinton, and before he comes, I would state, that as the letter is put in, which is to request co-operation in the Bay of Rosas, I have been furnished with the log of the *Caledonia*, which proves that that co-operation actually took place; that the fleet arrived on the 9th of June, and remained till the 15th, during which period, they landed part of their marines.

Lieutenant General Sir William Clinton again called in.

Lieut.-Gen. Sir John Murray. Have you never expressed yourself as offended with me, for not having placed that degree of confidence in you to which you thought yourself entitled, as the next officer in rank to me during my command?

A. I certainly had great reason to feel, during the time that I was under your command, that no degree of confidence appeared to be placed in me; but I do not recollect to have expressed myself at the time those events were passing in the manner in which that question supposes.

Lieut.-Gen. Sir John Murray. The question is never, it does not allude particularly to that time.

A. I do not recollect to have expressed myself as offended with you; I felt it certainly.

Rear Admiral Sir Benjamin Hallowell. I will now put in the log of the *Caledonia*.

Judge Advocate. It should be proved how it came here.

Mr. John Darby sworn.

Examined by the Judge Advocate.

Q. From whence do you produce this?

A. From the Navy office, from the officer who has charge of those documents, in the presence, and by the direction of Sir Thomas Boulden Thompson, the Comptroller of the Navy.

Judge Advocate. Perhaps the better way will be, to have extracts taken from it, unless you can draw a conclusion from this to satisfy the Court, and then the book may be returned.

Rear Admiral Sir Benjamin Hallowell. It is to prove

that the whole Fleet left the blockade of Toulon, to go there, and that they were there.

Judge Advocate. And that the Admiral's ship was in the bay of Rosas.

Rear Admiral Sir Benjamin Hallowell. And it proves also, that the fleet was with him from the 9th to the 15th, and that their object was to draw the attention of the enemy there.

Judge Advocate. This purports to be the log of the Caledonia, from December, 1812, to June 1813, it mentions the state of the wind, and so on, at one o'clock on the 9th, standing in to the bay of Rosas, and I observe, on Thursday June the 10th, it mentions the boats of the Royal George and Ocean, landed some Marines and Seamen, at the town of Escarles, to dislodge a part of the enemy.

Lieut.-Gen. The Hon. Sir Edward Paget. It is very easy during our adjournment, to copy all those parts which shew that the fleet was there, and their continuance and operations.

President. The admission of Sir John Murray, a little time ago seemed to go to this.

Rear Admiral Sir Benjamin Hallowell. No, that only went to his application for the co-operation.

Lieut.-Gen. Sir John Murray. Of the time of their arrival, I have no distinct knowledge, but I am perfectly willing to admit, that they arrived about the 9th, and staid there till about the 15th.

General Nicholls. I think that extract should be taken, which you just read, as to the landing of the marines and seamen, to dislodge the enemy, as that fact has been referred to.

Rear Admiral Sir Benjamin Hallowell. As probably Sir John Murray may, in his defence, lay before the Court some letters from Spanish officers, I have one from Colonel Launder, who commanded a brigade of the Spanish army; that if his evidence is admitted, I have to request the indulgence of the Court, that mine may be received also; unless his is received, I cannot expect mine.

General Lord Charles Fitzroy. You merely put in a claim?

Rear Admiral Sir Benjamin Hallowell. Yes, lest it should be rejected hereafter, in consequence of my not having put it in.

Judge Advocate. It is dated June the 14th; shall I read it, that the Court may see what it is?

Rear Admiral Sir Benjamin Hallowell. I request it may not be read, unless it is considered as admissible.

Judge Advocate. You wish only, that it should be retained by the Court?

Rear Admiral Sir Benjamin Hallowell. Just so, but I do not wish Sir John Murray to be furnished with its contents unless it is evidence.

Judge Advocate. It struck me only, that Admiral Hallowell should tender it now, or that not giving evidence afterwards he might be precluded.

Lieut.-Gen. Sir Samuel Auchmuty. The Members near me are of opinion, that if that letter is produced at all it ought to be at present, because if it is produced after the defence is put in, Sir John Murray will not have that opportunity in his defence of noticing that letter, which he ought to have, therefore, I am of opinion, and those near me, that it ought either to be produced now, or not at all.

President. But that would go to receiving that in evidence, and giving a right to Sir John Murray to produce similar letters.

Lieut.-Gen Sir Samuel Auchmuty. Then the best way will be, first to determine whether such letters are admissible.

Judge Advocate. Then it should be first known what proof there is, as to the hand writing of Colonel Clauder.

Rear Admiral Sir Benjamin Hallowell. I have two witnesses, who will prove it was laid before Colonel Clauder in their presence, and that he admitted it to be his hand writing.

Lieut.-Gen Sir John Murray. Upon such evidence, I cannot resist its reception certainly.

President. Can the witnesses state that now?

Rear Admiral Sir Benjamin Hallowell. They are now in the town, Captain Inglefield was one, but I was there myself.

Judge Advocate. If you state that upon your oath, that will be sufficient, I was not aware you were one of them.

Rear Ad. Sir B. Hallowell. My only reason for presenting that is, learning that Sir John Murray had a number of papers from the Spanish Officers to present, and not knowing whether they will be presented or not, I beg to lay that before the Court as part of my evidence, if his is received; if his is not received, I cannot expect mine will be.

President. The Court seem to have determined to receive it now.

Lieutenant-General Porter. They must either come to a determination not to receive this letter at all, or to receive it now.

Lieut.-Gen. Sir J. Murray. I understand this is agreed to be received, and that the only question is, whether it is now to be read, or whether it is to be kept as a masked battery to be opened afterwards; I have no objection to its being read now.

Rear Ad. Sir B. Hallowell. If it is put upon that footing, I have no objection to its being read immediately.

President. I believe the Court are perfectly satisfied, that your objection to its being read now, was under a doubt whether it would be received at all; but as the Court have determined to receive it, it would be proper it should be now published for the benefit of the Prisoner in his Defence.

General Harris. Unless you say you will not bring any such evidence; I think we ought to admit this.

Lieut.-Gen. Sir John Murray. Oh! I cannot say that I shall not; the Court must be perfectly aware that, being only a week at Catalonia, I must depend, in a great degree, upon the letters I had from Spanish Officers; and that I must necessarily depend upon the authority of those Officers; I think it might be necessary likewise to prove the truth of the translation.

Rear Ad. Sir B. Hallowell. There is the original and the translation.

Lieut.-Gen. Sir John Murray. I will look at the original if you please, as you read the translation.

Judge Advocate. As far as I have gone, it appears pretty fair?

Rear Ad. Sir B. Hallowell. It was addressed to Capt. Adam, in consequence of its being supposed I had gone off the coast.

The letter was read as follows.

Reus, June 14th, 1813.

SIR,

I have to inform you, that I have just arrived in this town, with three battalions, and one squadron, with which force I was within three hours of Villa Franca, expecting the enemy, when he, 5,500 in number, retired precipitately towards Barcelona, at ten o'clock at night, of the day before yesterday, (the 12th.)

The transport that was anchored in Salou, has on board

all the clothing of the two battalions, Tarragona and San Fernando of my Brigade; and, as my principal object in coming hither, was to clothe my troops, I hope you will do me the favour to order the transport in question, to return to the said port of Salou, that I may avail myself of the present juncture to clothe these corps.

If you know any thing of the movements of the enemy from the westward this way, I shall be obliged to you for intelligence of it.

MANUEL LLAUDER.

Captain Adam.

Lieut.-Gen. Sir John Murray. The translation appears to me perfectly correct.

Rear Ad. Sir B. Hallowell. I put in that letter, only to prove that he was nearer to the enemy, and that the enemy were retiring, and that so late as the 14th, there was no danger between Ballaguer and Tarragona, that he came down between those places to take his clothing, not fearing any danger.

Lieut.-Gen. Sir John Murray. Mr. President, may I be furnished with a copy of that letter, or the first paragraph of it, as it has now become a public document?

Judge Advocate. Certainly; you shall have a copy this evening.

Rear Ad. Sir B. Hallowell. Mr. President, I have closed the prosecution; I have to regret, that I have not been able to procure the evidence of the Spanish Officers, and, although, I have not been allowed to go beyond the 12th, I beg to return my sincere thanks to the Court, for the very handsome manner in which they have declined receiving any evidence from me, subsequent to that date.

Judge Advocate. Then the only point now to be ascertained, is, what time Sir John Murray conceives to be necessary to prepare his defence.

Lieut.-Gen. Sir John Murray. May I beg to ask for the opinion of the Court, whether, as there have been two openings to the Charges against me, the same indulgence will be given to me? The Judge Advocate opened the two first Charges, and Admiral Hallowell was afterwards permitted to open the third Charge. It will be, perhaps, more convenient to the Court itself, if they were to allow me to make the same division; to make an opening in reply to the Judge Advocate's opening of those Charges, and to substantiate that with evidence, and then to make my reply to Admiral Hallowell's opening, and, subsequently, to

substantiate that by evidence. My Case is very peculiar; because, in fact, I have two accusers, whereas, in general, in Courts Martial, there is only one.

President. There are three Charges; two brought before the Court by the Judge Advocate in his official character, and the third by Sir Benjamin Hallowell; I should think it would quite rest with yourself, to make your defence to those Charges in any way you see fit.

Judge Advocate. It is a very peculiar Case certainly, there being two prosecutors; I see no objection to the course proposed, I may have to reply upon the defence to the two first Charges, and Sir Benjamin Hallowell upon the other; but as to that, the division of the Case would make no difference. Having seen Sir John Murray's dispatches and letters, and having observed upon them, I do not, at present, foresee any probability of my being called upon to reply.

Lieut.-Gen. Sir John Murray. I should be sorry to preclude you from any observations you feel it proper to make upon my defence.

Judge Advocate. It could not make the least difference. The next question is, what interval you would require before you commenced your defence to the two first Charges?

Lieut.-Gen. Sir John Murray. I am sure the Court must be aware, that there can be no person more desirous than myself to bring these proceedings to their close, but after the contradictory, and in every respect, false, when I say false, I mean not wilfully so, but for want of information; but after the evidence of that nature which has been laid before the Court, it would take me several days.

Lieut.-Gen. The Hon. Sir Edward Paget. Do you wish for an interval also between your defence to the two first Charges, and your defence to the third Charge?

Lieut.-Gen. Sir John Murray. No; I wish for no time between the two, but for all the time now, I shall be ready to go on when I have once begun my defence.

President. What time do you think is a reasonable time for yourself to prepare?

Lieut.-Gen. Sir John Murray. With the great inconvenience every Member of the Court is put to, I am almost afraid to ask for five days; but I do not think I should be prepared to lay my defence before the Court, previous to that time.

Judge Advocate. There is one reason why the Court

could not meet here on Tuesday, on account of the County meeting, on which occasion, I understand, this room is generally used.

Lieut.-Gen. Sir John Murray. I should be ready by Friday morning. I ask that as an indulgence, I am quite aware it is a long time.

President. I believe, Sir John Murray, the Court are very well disposed to grant you any time you state to be indispensable for the purpose of preparing for your Defence; therefore, it will rest with yourself to name a time; if that seems unreasonable, perhaps the Court had better be cleared, and determine upon it.

Lieut.-Gen. Sir John Murray. My opinion is, that I cannot be perfectly prepared before Friday morning.

General Lord Charles Fitzroy. There is half of to day left.

Lieut.-Gen. Sir John Murray. If it is the wish of the Court, I will endeavour to be ready by Thursday morning?

President. I think we had better clear the Court and determine upon it, and you shall be informed of our determination.

Adjourned to Friday morning, ten o'clock.

SEVENTH DAY.

Friday, 27th January, 1815.

The Court met pursuant to Adjournment.

Judge Advocate. Before the Court proceed to hear the defence, I would mention one subject which is merely matter of form. When the book was put into the hand of Admiral Hallowell, to swear to such facts as were within his own knowledge, at the suggestion of Members of the Court, and with the consent of Sir John Murray, he was permitted to swear to such parts of his opening as had come within his own knowledge. As there might be some doubt as to what should appear upon the minutes, I have requested the Admiral to mark all such parts of his statement as he meant should be his evidence, and the statement, so marked, has been shewn several days ago to Sir John Murray; I would merely now request Admiral Hallowell to point out such parts as he intends to be his evidence, and that will be entered as his evidence, separately upon the proceedings.

Rear Ad. Sir B. Hallowell. I am ready to make Oath to those parts.

President. It is understood, Sir Benjamin, that you make Oath to the parts you have marked.

Rear Ad. Sir B. Hallowell. Yes, Sir, every paragraph I have marked in the copy, in the possession of the Judge Advocate, I make oath to.

Judge Advocate. Sir John Murray will now proceed with his Defence.

Lieut. Gen. Sir John Murray. As the Defence is of some length, and there will probably be a considerable number of papers to read, I would request the permission of the Court for one of my Friends to read part of it for me.

Judge Advocate. I believe the usual practice is, either that you should read it yourself, or that it should be read by the Judge Advocate. I had much rather you should read it, any papers you put in, I will with pleasure read. In Colonel Quentin's case, the Court would not permit his Defence to be read by his Counsel, or by any other person but the Judge Advocate.

Lieut. Gen. Sir Sam. Auchmuty. I was one of the Mem-

bers, and the Judge Advocate gave it as his opinion, that the Defence must be read either by the Prisoner or by the Judge Advocate.

Gen. Harris. In General Whitelocke's case, the Defence was read partly by himself, partly by Mr. Sewell, and partly by Mr. Lewis.

Judge Advocate. Some of the Members near me express a wish that this point should be considered, as the practice has been different.

Lieut. Gen. Sir Sam. Auchmuty. The rule was made to prevent the interference of Counsel, but I see no objection to a friend reading it.

Judge Advocate. Sir John Murray's proposal is not to have any part of it read by Counsel, but by one of his friends.

Lieut. Gen. Sir Sam. Auchmuty. I should conceive there can be no objection to that.

President. I collect the opinion of the Court to be, that Sir John Murray having a friend near him, may be permitted to deliver the whole or any part of his Defence through that friend.

Lieut. Gen. Sir John Murray. There are a great many things which it would be extremely painful for me to read in the first part.

Gen. Nicholls. The opinion of Mr. Ryder was, that any friend might read it, therefore we have the opinion of one Judge Advocate against the opinion of the other.

Gen. Lord Cha. Fitzroy. Admiral Hallowell, I suppose, has no objection.

Rear Ad. Sir B. Hallowell. I have not the least objection to any course that will be most convenient to Sir John Murray.

Judge Advocate. Then I understand the opinion of the Court to be, that provided no Counsel appears, Sir John Murray is at liberty to deliver any part he pleases through a friend.

The introduction to the Defence was read by Major Cutcliffe; the Defence to the first Charge, by Sir John Murray; the Defence to the second Charge by Colonel D'Aguilar; and part of the Defence to the third Charge, by Sir John Murray.

DEFENCE.

MR. PRESIDENT, AND GENTLEMEN,

However oppressive the situation of an Officer may be, who is called upon, after a long career of service, to answer accusations, as painful to his feelings, as they are injurious to his military reputation, I congratulate myself most sincerely, that I am at length permitted to appear before you.

Amidst the clamour arising from popular disappointment, and suffering, as I have done, under every species of misrepresentation and abuse, which private animosity could invent, or ignorance as to facts give birth to, I know not what would have supported me in such a situation, but the prospect of presenting myself at last before this Court, and the knowledge that my cause would be heard by a tribunal composed of officers, whose experience would enable them to judge, and whose honourable lives were a guarantee to the world and to me, that that judgment would be given which a conscientious discharge of public duty should dictate.

It was this prospect, added to the consciousness of having discharged my duty to the utmost of my ability, in the service of my Sovereign and my Country, that has supported me against a tide of prejudice, I had almost said of persecution, sufficient to overwhelm the strongest mind.

It was this prospect, and this feeling, that have given me firmness to appear with confidence before you, and to rest my cause with fearless reliance on your decision.

If any thing could add to the satisfaction with which I hail this long wished for opportunity to explain my conduct, it would be the contemplation of the honourable men by whom I am to be tried; it would be the conviction that rank and talent, and experience, have been combined on this occasion to administer justice; and that the decision of so honourable a Court, will speak peace to the feelings of the British army, and carry conviction to the minds of the British people.

Most thankfully do I acknowledge these advantages; most sincerely do I congratulate myself upon the possession of them; and most devotedly do I offer my humble tribute of gratitude to my Sovereign, for the selection and formation of the Honourable Court, whose judgment shall decide upon my conduct.

With these feelings, I will not allow myself to dwell unduly on the length of time that has been suffered to elapse, since the solemnity of a public trial was determined on to decide upon the accusations now before you; nor will I trespass unnecessarily on the time of the Court, by advertin to the peculiar hardships of delay, at a period when the clamour of popular feeling gained fresh strength every hour, from the determination of His Majesty's Ministers to make my conduct the subject of Public Enquiry.

But these are hardships that will naturally occur to the minds of the Court before which I stand, and though I am satisfied they have arisen (as stated by the Judge Advocate) from unavoidable circumstances, and the pressure of business, arising out of the important events lately passing around us; yet it is not the less excusable on that account for the individual who suffers, to feel and to lament them. And yet, Sir, if this were all I had to complain of, the feeling of regret would scarcely survive the expression of it at a moment that terminates at once my suspense and my anxiety. It might, indeed, excite a transient observation; but could never give birth to lasting uneasiness. Unfortunately, however, it is combined with other circumstances which have affected me most deeply, and upon which I may be permitted to dwell more at large.

I allude on this occasion, not to the violence of public clamour (for we are all of us amenable in our competition for public honours, to the voice of public opinion;) but to the cruel manner in which that clamour has been raised, fomented, and increased; and that too by misrepresentations, founded on misstatements of individuals, whose high rank and public situation have given weight to their assertions, and carried premature conviction to the public mind.

The clamour, Sir, of a free people, ardent for honour, and impatient of disappointment, may be violent; but it is not lasting. The British nation more particularly, has been accustomed to unite generosity with enthusiasm; and although the first burst of popular feeling, in cases of failure of military expeditions, has been always marked by the tumult of disapprobation; yet has the spirit of prejudice usually subsided with the ferment of disappointment, and yielded to the moderated feelings of fair and impartial enquiry. I appeal to every member of this Honourable Court, whether this has been the case in the present instance, and whether the violence of the attacks upon me, has been the mere result of popular resentment, and the simple consequence of honest, though misguided disapprobation,

I entreat you, Mr. President and Gentlemen, to recal, on this occasion, to your recollection, the succession of abusive and malicious paragraphs, with which the publick prints—or to mark the case more strongly, with which certain of the publick prints have teemed---in which exaggerated accounts of the army under my command have been ungenerously contrasted, with only mutilated statements of that of the enemy and his positions; and in which, motives have been assigned for my conduct, that could have no other object than to *prejudge* my cause, and inflame the worst passions of the British people against me. Even at a late period, when the hour was already fixed for the solemn trial to which my conduct is submitted, the same unmanly course continued to be pursued; and, not satisfied with the attack levelled against my reputation as an officer, my feelings as a man, were wounded by ungenerous observations upon a departed relative, whose memory surely is entitled to respect, even when his services shall be forgotten.

To these anonymous attacks I never have given, nor will I now condescend to give an answer. I notice them merely to shew the arts which have been practised by my enemies, to give strength to popular disappointment, and to countenance and support the premature decision of the publick against me.

But though I am silent in regard to my anonymous aspersers, I cannot pursue the same course as to the conduct of my avowed accuser, Admiral Hallowell, because it is to his letter, and to the manner in which it was transmitted, that I owe not only all the illiberal abuse poured out against me, and my suspension from all military command, but to this letter and its author is it, that I am likewise indebted, for thus standing an accused person before you, and being thus brought under the necessity of justifying my measures in the face of a publick tribunal.

You will observe, Mr. President, it is no private document to which I allude, it is no anonymous publication to which I refer; neither is it a doubtful opinion, hazarded by a person distant from the scene of action, and ignorant of passing events. It is a publick dispatch, addressed by Admiral Hallowell, commanding the naval branch of the expedition, to Sir Edward Pellew (a copy of which was, at the same time, forwarded to His Majesty's Government) containing a direct attack on my military reputation, and in no measured terms, condemning not only the past ope-

rations, on which, perhaps, he might think it his duty to report; but condemning likewise, in advance, every military measure which I might hereafter plan, or the execution of which might be entrusted to my charge.

It is a dispatch, Mr. President and Gentlemen, in which I am found guilty, before I am judged; in which I am condemned, before I am heard; and in which I am held up to my Sovereign and my Country, as having degraded the British army, and as an Officer, from his character, unfit to hold any future command.

I could not meet this letter, Gentlemen, for I was ignorant of its contents, and when, some months afterwards, I received a return copy of it, from His Majesty's Ministers at home, it was then too late to counteract its effects. I could not even suspect that such a letter had been transmitted against me, for, previous to forwarding my own dispatch of the 14th of June (the very day on which this letter appears to have been written, I read it to Admiral Hallowell himself) with the sole exception of that part of it (exculpating the Admiral of all blame, if blame were to be attached, and expressive of my acknowledgments to the naval branch of the service), and distinctly asked him if there were any points in it which had been incorrectly stated, or in which he differed from me in opinion. To this, Admiral Hallowell answered, that the only thing in which he differed with me, was, as to the possibility of bringing off the guns, a difference of opinion which, on reference to my dispatch, it will be found, was distinctly stated, and consequently left me nothing to amend. Admiral Hallowell will, I doubt not, remember this conversation; it passed on board the Malta, on the morning of the 14th of June---we were alone---but this, I should hope, will be only an additional reason with Admiral Hallowell, for recalling the circumstance to his recollection.

It would, Mr. President, be a useless waste of the valuable time of this Honourable Court, to point out how much difference there exists between my letter of the 14th, and the dispatch of that date to which I allude. Nothing, indeed, can be more opposite; and yet, Sir, when the ink was scarcely dry on this dispatch, when, I believe, its various copies for circulation were not yet finished; but, undoubtedly, a considerable time before it was committed to Captain Carroll, the naval officer especially selected to convey it to the Duke of Wellington and the Admiralty, did the Rear Admiral declare to me that, as to facts, he

perfectly coincided with me, in all I had stated; and that he differed from me only as to what the immediate consequences of these facts should have been. Here, Sir, the question between us would have become, in a very great degree, a mere question of opinion; but could I, after this declaration, ever contemplate the transmission of a dispatch, in which the grounds, on which this opinion must necessarily be founded, were so differently represented and applied?

In the temper of mind in which Admiral Hallowell then was, I did not look for that frank and open communication of which my conduct towards him might have suggested the propriety; and of which, perhaps, our former cordiality might have justified the expectation.

It would appear, however, that something, on reflection, had whispered to his own mind, that a more candid line of conduct might not have prejudiced his cause, for on the 22nd of July, something like a communication on the subject was made to me by the Admiral, and to which, as a proof of his candour, he has deemed it proper, in his opening to the third Charge, to allude. But the period when this communication was made, and to which, I intreat Mr. President, you will do me the favour particularly to advert, is the best answer I can furnish to such an assertion. It was thirty-seven days after this dispatch was written, having had at Alicant several opportunities of communicating it, if he thought proper, and when he well knew that it must, long before, have reached its destination, and produced its desired effect, on the character of the man for whom he was, even then, professing a personal regard; at a moment, too, when he was even intimating his regret, that I should seem to mix any personal feeling, in a point where publick duty was alone concerned.

But even this scanty and verbal communication was the effect of accident. Very unexpectedly, indeed, did I touch at Vinaros, where the army and the Admiral lay some weeks after these transactions, on my passage to Sicily; and after I was actually in the boat to depart, and when he saw that I had no longer the power of writing home, however important it might have been to me (the ship being under his own orders to sail in an hour) Admiral Hallowell requested to speak to me, and then told me, that he had written to England, strongly, very strongly indeed, respecting the Tarragona expedition; but not a line of the letter, even

at this distant period of its transmission, was ever communicated to me, much less was I led to conceive that it controverted facts which he had previously admitted, or that it contained charges of such a serious nature against me. So much, Sir, the reverse, that from this conversation I was even taught to believe that, however strongly the Admiral might have written concerning the operations before Tarragona, my share of his censure would not be great, for he distinctly told me, that I was not the person he blamed; and that to me, the misfortunes of the army could no further be attributed, than in listening to the advice of those who, by their counsels and information, had sought to mislead me. I shall hereafter refer to the meaning of this observation.

And yet was I, Sir, strange as it may appear, almost the only person at this moment in the army, who was ignorant of the aspersions thrown out against its Commander. A publicity was given to the whole proceeding, by the circumstance of a naval officer being dispatched (as I said before) with a copy of this letter to the Duke of Wellington and the Admiralty---(a measure, I will venture to say, unprecedented in the annals of military operations;) and the contents of it, if not known to a word, were so generally understood on its reaching England, by the correspondence which seems to have accompanied it, that every newspaper in the country was in immediate possession of the fact; and commented upon it, with all the asperity which naturally arises from the countenance given by such high authority, to the publick disappointment, although, had the facts been fairly stated, it would have been seen that a different result could not, in justice, be expected.

It is this, Mr. President, that I complain of---it is the fuel unwisely and ungenerously administered, both by conversation and correspondence, to keep alive the flame of publick disappointment. It is not the burst of honest feeling, or the delusion of popular enthusiasm, that excites my regret. But I am grateful, that the day is arrived at last, when I am permitted to appear before you; and when an opportunity is at length afforded me, of silencing the clamour of the one, and disappointing the injustice of the other.

I have said that it is to this letter of Rear Admiral Hallowell, that I owe all the subsequent consequences, and the prejudices excited against me, and the situation in which I

am now placed. I conceive myself well warranted in making this assertion, for in as far as His Majesty's Government is concerned, I have it under the hand of Earl Bathurst, His Majesty's Secretary of State, not that His Royal Highness the Prince Regent disapproves and condemns my conduct, or thinks an enquiry necessary, but that his Lordship himself conceives, that I must naturally be anxious that a strict investigation should be made into all the circumstances, on which Rear Admiral Hallówell has thought it his duty so strongly to animadvert. This is most distinctly confirmed by the Judge Advocate in his statement of the history of the transaction, and of the causes of delay of this trial. The Court will observe from that statement, that the first step naturally taken by the Duke of Wellington, was to call for further information, but before this could be received, the Commands of His Majesty's government reached his Grace, to frame Charges. The statement of the Judge Advocate was as follows, and I intreat the indulgence of the Court again to bring it before them.

"The first step to be taken by the Duke of Wellington, was immediately to call upon General Murray, and also upon General Copons, who commanded the Spanish forces in Catalonia in Co-operation with the former, to forward their respective statements, explaining more fully in detail, the whole of the transactions in question, on the Eastern Coast of Spain. Earl Bathurst, on the receipt of his dispatches, and of the copy of Admiral Hallówell's public letter to Sir Edward Pellew on this subject, (which will presently be produced and read) immediately forwarded a copy of the letter to the Duke of Wellington, stating, that in consequence of this letter, containing such matter of charge against General Murray, it appeared impossible that the business could be suffered to pass over without investigation, as even if the several statements demanded by the Duke, should, when received, turn out in his opinion satisfactory, nevertheless, Sir John Murray who had been put in possession of the Charges made against him in the Admiral's letter, would probably be himself the first to call for Enquiry, and that if on the contrary, the answers when received by the Duke, should not appear to him satisfactory, he must be convinced of the necessity of farther proceedings. Earl Bathurst further stated, that enquiry in the Peninsula appeared the most convenient, and recommended a general Court Mar-

"tial in preference to a Court of Enquiry; if upon investigation, it should be found that the conduct of Sir John Murray could be properly in point of form made matter of Charge before a Military Tribunal. He concluded by referring the whole business to the Duke of Wellington, and gave orders accordingly, for General Murray to proceed to Gibraltar, and place himself under the Duke's command. The statements required by the Duke of Wellington, did not arrive until the month of August, and it is obvious that in the mean time nothing could be done. Almost immediately after they were received, the whole of the Papers were delivered into my hands by the Duke, and I was directed by him to prepare Charges—the two first according to Instructions given to me for that purpose, and the last to be founded upon the Admiral's letter, in order on the one hand, to give the latter an opportunity of proving by evidence, that which he had stated to Sir Edward Pellew, or on the other for General Murray to vindicate his character from the Imputations and Charges made against him. In a very few days three Charges were framed accordingly, and having been somewhat altered, and finally approved by His Grace, they were forwarded in their present form to England, for the approbation of the Prince Regent."

After this statement, am I not justified in saying that to this uncandid, and I hope the Court will think I use no harsh term, when I call it also unfair, and ungenerous proceeding of my Prosecutor, I owe the clamour which compelled His Majesty's government to issue peremptory orders, without farther enquiry, and to direct that upon this ex parte statement only of my Prosecutor, my conduct should be made the subject of public Investigation. The Duke of Wellington, in obedience to those orders, directed Charges to be prepared, which in justice both to the public and myself, bring the whole subject under discussion; and in the discharge of his duty, His Grace corrected those Charges, and transmitted them to his Majesty's government; I say in the discharge of his duty, for I am warranted in distinctly stating, from communications from His Grace, arising out of my representation upon the subject of delay, that but for the Admiral's letter, and the orders of Government, he should not have thought of making my conduct the subject of public Enquiry. I trust that the Court, and I am satisfied that the high and honorable mind of His Grace, will forgive me having alluded so far to the communications which occurred

upon this subject, and which I have been solely induced thus to refer to, by the very peculiar circumstances of the case; and by the statement which has been submitted to the Court, of the manner in which these Charges originated, and are now brought before them.

It is not then by His Majesty's government; it is not then, by the Duke of Wellington, that I am brought to trial, for failure and disobedience of orders, but it is by Admiral Hallowell, ignorant of the plans of the Campaign, ignorant of the instructions under which I was acting, and with all respect for his character in his own profession, as little calculated (as I have seen from the advice with which he has frequently honored me) to form a sound judgment upon military points, as might be expected from his natural habits and the service in which he is engaged. And yet, Sir I would not be unjust to Admiral Hallowell, I never have been so.—It is a name I have never mentioned in my public dispatches without consideration, and which, even now, I shall endeavour, where necessary to notice it, to do so without animosity or resentment.

Deeply do I lament that, in my own Defence, this ever will be required; but Admiral Hallowell has himself occasioned the necessity, by the spirit of personal animosity which he has unnecessarily and ungenerously, perhaps, displayed in his letter, and in his whole conduct on this occasion. I say unnecessarily, because the ends of public justice are equally well obtained, where zeal is tempered with moderation, and ungenerously, perhaps, because I am unconscious of having given reason for personal hostility.

I am, Mr. President, fully aware, that in point of fact, the motives by which my accuser was actuated, will neither condemn nor acquit me; but satisfied as I am, and satisfied as I trust this honorable Court will be, that the Letter in question alone has produced all the persecution I have endured, it becomes necessary to inquire, with what spirit this production was penned, that the Court may be induced to weigh with caution, the Charges which are acknowledged to be founded on its transmission. Is this, I may be permitted to ask, the dispatch of an officer, written in a cool and dispassionate moment? If it betrays no symptoms of personal animosity; if it breathes only zeal in his country's service, and is only a statement of facts, for the information and guidance of his Majesty's Ministers at home, it must naturally meet with every attention it deserves; but when the contrary of all these necessary qualifications is displayed,

the Court no doubt will view it with a jealous eye, and admit its assertion with caution.

"Deeming it," says Admiral Hallowell, "of the greatest importance, that Lord Wellington should be made early and certainly acquainted with these deplorable proceedings, I have sent Captain Carroll in the Hyacinth to land at Alicant, and make his way across the country to his Lordship's Head-quarters."

Was it to make his Lordship early acquainted, that he sent a naval officer, when a Courier, no doubt, could much more expeditiously have performed the service? Was it to give the Duke of Wellington, early and certain intelligence that a copy of his dispatch was sent home, without passing through the hands of the Rear Admiral's immediate commanding officer, Sir Edward Pellew? No, Sir, it was to make the whole affair more remarked. It was, Sir, (and in this he has succeeded) that the army under my command, that that under the Duke of Wellington, and that the world at large, might believe that I must have been guilty of every species of misconduct, to induce an officer, holding so high a situation as Admiral Hallowell, thus to deviate so entirely from every rule and custom of joint naval and military service. And who, may I be permitted to ask, constituted Admiral Hallowell as judge of the necessity of apprising the Duke of Wellington of the situation of the army? Was he the person whose duty it was to do so, admitting that the necessity existed? could the Admiral take upon himself to say, that the Duke of Wellington had not foreseen the situation in which the army was placed, and had not given the requisite orders to meet such an emergency?

No, Sir, it was with no such view as the one referred to, that a naval Aid-de-camp was sent; and however Admiral Hallowell may disguise the proceeding to his own mind, and may hope to disguise it from the publick, the publick will not be deceived, but too plainly will perceive the true motives of this extraordinary mission. But, Sir, if Admiral Hallowell denies such to have been the motives of his conduct, I will ask him, why it was his intention to conceal the whole affair from me?

The dispatch of the Hyacinth, I was led to believe, on the morning of the 14th, was a sudden determination, which, in the first instance, I learned accidentally. But, Mr. President, Admiral Hallowell's resolution, not only to send this ship to Alicant, but likewise to send home, and to the Duke of Wellington, a copy of his dispatch to Sir Edward Pellew, was

formed on the evening of the 12th; I will prove it, Sir, from the most incontestible evidence; I will prove it by the testimony of the officer who was informed of it by himself, and who, while he confirms to you this fact, will state it in the no very decorous words which were used by the Admiral on the occasion, and from which I must beg the members of this Honourable Court will draw their own conclusion of the spirit which influenced his designs.

In this premeditated system of secrecy did the Admiral persevere during the 13th, when my accidental return on board the Malta, on the morning of the 14th, to a certain degree deranged his intentions; but even to this late hour did he express his hope, as I have been repeatedly informed, that his own dispatch would be finished before I came back from the shore, where the situation of the army at this time detained me.

Is this a proof that he wished the Duke of Wellington to be certainly informed of the proceedings of the Army; for who could give His Grace an accurate account of what had passed, or any account of what was next to be undertaken, but myself? or was it a fear that I might send at the same time an answer to the representations he was about to make to the publick, and that a plain narrative of causes and events might rob him of the glory of standing forward, the uninvited champion of the Allied army, and deprive him of the credit of crushing its Commander, before he could have an opportunity of bringing forward one word in his Defence? Sincerely do I hope I may have mistaken Admiral Hallowell's motives for this meditated concealment; if he can put any other construction upon it, than that which it so evidently bears, I shall with alacrity acknowledge my error, I will even now, and before I hear him, declare it my opinion, that in a cool and dispassionate moment, he never would have thought of such a measure; nay more, Sir, that in any other temper of mind, he would have been the first to condemn it.

It may perhaps be a further excuse for Admiral Hallowell, that every angry feeling was inflamed by a little circle he had long assembled about him, who looked up to him, and his opinions, as the standard rules of military perfection; they had long been accustomed to bow to his decisions, and, on this occasion, they appear to have heightened his resentment, by the re-echo of his own misstatements, which the blindness of their devotion, or their ignorance of passing events, prevented them from being able to detect.

Is anguinely entertain the hope that every Member of this

Court will have perceived, not only from the evidence which has been brought forward, but from the manner in which this evidence has been given, that I have too much reason for the observation which I have just intruded on its attention.

Admiral Hallowell has repeatedly laid in his claim to an admission of the openness and candour which directed his proceedings on this occasion. Let those who are unacquainted with the studied concealment exercised throughout the transaction, acknowledge the justice of such pretensions; but surely it will not be in this Court where such facts as I shall prove, will stand recorded, that the credit he desires will be obtained. And yet, Mr. President, it is to a dispatch, written under such a disposition of mind, that I owe the situation in which I am now placed.

It is to a dispatch planned in secret, penned in personal enmity, (and this I suspect increased from a late discovery that I entertained no very high opinion of the Military councils of its author), and dictated by a desire to blast at once my reputation, and that of others, by whose advice, Admiral Hallowell took upon himself to say I acted; to a dispatch I repeat indited under all these impressions, is it that I owe the clamour which has been raised against me, and under which I have been so long a silent but indignant sufferer. The effect has been, as might be expected, Mr. President, worthy of the cause which gave it birth; and I will take upon me to say, that no paper under the name of an official document, was ever transmitted to Government, more calculated to mislead his Majesty's Ministers, or to inflame the minds of his Majesty's Subjects. The Statements and Evidences, which I propose to submit to this Court, will best contradict the Admiral's assertions, and in the few observations which I shall make on this extraordinary document, at present, I shall avoid every part which will hereafter become a matter of more direct enquiry on the different Charges before you. I shall not, therefore, in this place attempt to confute the bold assertion of Admiral Hallowell, that there never was ground to believe that the Enemy's columns advancing from Barcelona exceeded 5000 men. In the 3d Charge I pledge myself distinctly to prove the reverse. Here I shall content myself with drawing the attention of the Court to the nature of the remark, by which it is clearly intended to be understood, that neither Admiral Hallowell, the General in Command, nor any other officer whatever, had any information, that a Column of greater strength was approaching. It was of consequence to Admiral Hallowell to establish the weakness of this Column, be-

cause he endeavours, throughout the whole dispatch, to insinuate that to the approach of this column alone are to be attributed all the deplorable proceedings he so circumstantially describes. It is true the Admiral does not rest this important point on his own assertion; he was fortunate enough, in his opinion, to procure a subsequent proof of these numbers; and I am much mistaken if it was not from this very evidence that he so decidedly asserts the amount of an Enemy's column, of which he had otherwise no knowledge or means of obtaining it, but what he acquired from myself. And what is this evidence upon which I am accused? Captain Stoddart, of the Strombolo, sees a peasant at Torradembara, whom, as he has told us, he never saw before, and with whose character he allows he was wholly unacquainted. This peasant tells him two things; the one, that the enemy's force consisted only of 5,000 men, and five guns; the other, that he had quitted the enemy's camp at Villa-Franca, at half-past seven o'clock, on the morning of the 13th, when they were stationary, and had no appearance of moving. The Admiral has, indeed, asserted in the opening of the 3d Charge, that he would shew me he had other proofs, but, Sir, what proofs has he produced: Captain Bowen has indeed told you, that he had received the same intelligence, but it appears not only that this information was received from the same person, but it has not been attempted to be proved, that he had made any report to the Admiral on the subject, when the dispatch in question was written. A letter, too, from Colonel Llauder, to which I shall hereafter have occasion to recur, has been produced likewise, but this is subsequent information; as a corroboration of Captain Stoddart's evidence, as to numbers, it might be admitted, but it can be no ground for the Admiral's assertion, as the letter from its date could not have reached him when the Hyacinth was already dispatched.

The attention due to Captain Stoddart's evidence will hereafter become the subject of enquiry. The Admiral has himself put the means of disproving it into my hands. I notice it here only with the view, that the Court may be aware of the very slight grounds on which he states, that I amongst others, had no reason to believe that a Column of more than 5000 men was approaching. Under any circumstances I should have thought the good sense of Admiral Hallowell would have induced him to pause, before he gave credence to a testimony of this nature, and much more before he embodied

so vague a report, in the form of a publick dispatch ; but when it was in direct opposition to every thing probable, and to every other intelligence I had communicated to him myself, I should have expected he would have been doubly guarded. But he allowed himself to be deceived, and has thus become the medium of circulating intelligence, bearing on its face the stamp of French fabrication. Admiral Hallowell is not satisfied with reporting once to the world that the British army had fled to their ships from 5,000 men, no nearer them, as he believes, than Villa-Franca ; (he knew not of their arrival at Arbos ;) twice must this story be told to produce the desired effect, and twice, likewise, must the insufficient Garrison of Tarragona be brought into notice.

"The garrison, by the accounts *we* have received," says the Admiral, "amounted to from 12 to 1600 men, and no account made it amount to more than 1600." I do not know who the Admiral means by *we*, I beg at least not to be included, for no account I ever received on the spot, made it amount to less than 1600, and generally to more. I, Sir, am not the only person who received such information. I will call an officer before you, who will tell you, that from those who quitted the town, after *we* had appeared before it, intelligence was obtained that the garrison consisted of 2000 men; and who when he received this intelligence, heard it accompanied by a declaration from Sir W. Clinton himself, that I was mistaken if I founded my calculations on weaker numbers.

There were two battalions of the line, at least 700 men each : one hundred artillery men, two hundred Spaniards in the French service, some small detachments of other corps, and for their guns, the crews of one or two privateers. But, the Admiral means it to be believed, that it was insufficient for the defence, and he wishes the conclusion to be drawn, that the place was, consequently, in my power. Whether the garrison was sufficient for a long and vigorous attack, is a question of little importance. It certainly was of sufficient strength to sustain the attack of one day, for no longer were the batteries open against the body of the place ; and, in as far as I have learned, it was, in Marshal Suchet's opinion, a sufficient garrison ; for, I do not understand that he strengthened it, except with a few artillery-men, when left to the attack of an army more than double that which then was before it. But this is really a point of little consequence, and I should not have

noticed it, had it not been to shew the Admiral's perseverance in scrupulously detailing every circumstance which could tend to exasperate the public mind against me. With this view it is that he paints the scene on the morning of the 18th. Nothing, I conceive, could be more natural, than that the guns which we had left, should be conveyed into the fort; but a description of the event was intended to heighten the picture. The Admiral here describes himself, as counting the men employed in this work, and tells the world, that he could not perceive that they were more numerous, than when the army was lying before the place. I should wish to ask Admiral Hallowell, when he saw the garrison, whilst we were before Tarragona? The French General probably ordered out the number of men necessary for the purpose; and, if he had had ten times the number, I do not think it very likely that he would have exhibited them on this occasion. The Admiral himself could hardly have expected this; and, I make no doubt, that Lord Exmouth, the Duke of Wellington, and his Majesty's Ministers, would have equally concluded, that the ordnance left, was taken into the fort; but, to the people of England, it might not immediately occur; and, it is for their edification, therefore, that the representation is delineated.

But nothing is omitted that could assist the Admiral in his object. In his anxiety, he cannot even avoid an exaggeration of our losses; and, boldly enumerates, not only the number of the guns left behind, but, as a proof of his accuracy, descends to report their calibres. The Admiral claims merit for having corrected this error, as soon as he discovered it; but, my complaint is, that such a statement was ever transmitted without becoming enquiry, and, that in this, as in more important respects, I am rendered amenable to the inaccuracy of the Admiral's calculations.

To have taken Admiral Hallowell's dispatch, paragraph by paragraph, might, perhaps, have best exposed the spirit with which it is composed, and the false colouring which it spreads over the affairs in question. But I have prescribed to myself another, and a shorter course, and shall be content to call the attention of the Court to this general feature that distinguishes it; namely, that the Allied army had embarked *solely*, and had abandoned the artillery *solely*, on account of the still distant approach of 5000 men. It cannot have escaped the observation of the members of the Court, that Admiral Hallowell wishes it to be so understood

that the movements of Marshal Suchet had no share in deciding me to the re-embarkation. The approach of that officer is never even hinted at, till the scene at Tarragona is closed, and a new operation at the Coll de Ballaguer is commenced. Till this moment, the Marshal's name is never mentioned; *throughout*, all calculation of his force is studiously avoided—and it is much more than even insinuated, that no information whatever of his movements had been received before the actual re-embarkation of the army. It is true this is not asserted in direct and absolute terms, but the manner in which Marshal Suchet is at last introduced, is conclusive of the Admiral's intention; and, to say the truth, it has answered his purpose, for the great and uninformed majority of the world, are easily carried away by first impressions, and without stopping to consider either dates or circumstances, readily lend an ear to the injurious conclusions that arise from such imperfect communications.

And yet, Sir, not only is the reverse of all this the case, but, I affirm, and in the Admiral's presence, that he knew that it was the combined movements of the two columns advancing on both flanks (and not the single and unsupported advance of General De Caen) which induced me to re-embark the army.

He knows that I had decided on attacking this latter column, which he states at 5000 men, and he knows (for I told him so myself on the night of the 11th, when I first learned it) that the rapid approach of Marshal Suchet would not only prevent me from carrying this plan into effect, but that it had decided me to raise the siege, and to embark. Can any man, then—can the Admiral himself, pretend to call this a fair and unprejudiced report of the events that had taken place, or of the motives which had guided my conduct? In possession, as he was, of the facts, I contend that the Admiral, if he chose to report on the subject at all, was bound, if not in justice to me, at least in the faithful execution of the duty he had prescribed to himself, to mention every cause, but, above all, the real cause, of the events upon which he thought himself called upon to address His Majesty's Government. The Admiral could not have forgotten, one would have thought, on the morning of the 14th, the conversation I had with him, to this very point on the evening of the 11th, and yet I can in no other way account for this omission; but, if he was ignorant of the approach of Marshal Suchet, which his

dispatch would lead us to suppose, of what value, I ask, is his advice or his opinion?

Supposing an enemy of 5000 men only near us, Admiral Hallowell might well, if applied to, have recommended a delay of embarkation; but, had he known that 20,500 men were approaching, independent of smaller corps in their rear, would his councils have been the same? And yet, Sir, granting that his memory is so feeble that he could not recollect this conversation which passed on the night of the 11th; he knew on the evening of the 13th, that our troops had been engaged with the Marshal's column the whole of that day, in the plain of Tarragona; and, what is still more remarkable, at the moment he was composing this imperfect dispatch, under his very eye, the troops disembarked from his own ship, during the night were engaged with the advance of the enemy.

Of two things, then, one is certainly true, either Admiral Hallowell *did* know our real situation, and has not faithfully represented it, or he was ignorant of it, which I am willing to believe, and his opinions can be considered of no estimation.

The choice, I leave to the Admiral himself. To me, the consequences have been equally prejudicial; the Government has been deceived, and I have been ordered to appear before you. But, this is not all---the country, too, has been imposed upon; the voice of public clamour has been raised against me, as the supposed author of national disgrace; and the misguided censures of the ignorant, have been directed at me, because, despising the popularity, I might have gained from fighting an action (however imprudent in its principle, and destructive in its effects), I hesitated not to expose myself to the whole effect of Admiral Hallowell's disapprobation, in the discharge of a great public duty, and in furtherance of the plans of the distinguished officer under whose orders I served.

Now, Sir, I should wish to ask any member of this Honourable Court who has heard the Admiral's dispatch read, whether he would not be led to suppose that the whole army was already re-embarked, when the landing at the Coll de Ballaguer was ordered, and that this was a new and a separate enterprise? Such, certainly, is the impression which it produced, and hence the origin of the 2d Charge. To have given His Majesty's Ministers and the Duke of Wellington, a fair view of the case, the Rear Admiral was bound to tell them, that, foreseeing the ne-

cessity of disembarking infantry, from the intelligence received during the night of the 12th, of the advance of the enemy, I had requested him, before I sailed from Tarragona, immediately to send a division of infantry to the Coll de Ballaguer, as, unless thus protected, neither the cavalry, nor the artillery, nor two battalions and a half, still on shore, could have embarked.

The Admiral knew this well, for, from his deck, he saw the enemy within gun-shot of the beach, on the one side, and he heard the artillery of Fort St. Philippe firing upon his columns on the other. Under these circumstances, of which Admiral Hallowell could not plead ignorance, it surely would have been becoming his situation, and the duty he had prescribed to himself, to state the grounds upon which I was acting, when he called for a judgment upon my conduct. The time to justify and to defend my measures at the Coll de Ballaguer, will be, when I shall come to the 2d Charge; I now only notice them, to shew the unfair and the uncandid representation which has gone forth, and which, having thus misled His Majesty's Ministers, has induced them to order me to appear before you, and, in this instance, has given birth to a Charge, which, under no other circumstances, could ever have been imagined against me.

Admiral Hallowell, in another paragraph, tells his Majesty's Government and the Duke of Wellington, that he had promised to embark the whole of the guns, provided I would remain till the night,—of his advice, and of his opinion, I know; but of such offers I have no recollection. Having said this, I must add, that even if he had made such an offer, I should not, probably, have attended to it, knowing, as I did, the total physical impossibility of his performing such an engagement. The letter from Admiral Hallowell on this subject, the first official letter of any kind I ever received from him, I beg to read, as it will expose to the view of the Court the nature of the Admiral's proposal, and which he was anxious should not be misunderstood, or he would hardly have communicated it with official exactness.

“ His Majesty's ship Malta, Tarragona Bay,

“ June 12th 1813, 9 A. M.

“SIR,—As you have come to the determination of raising the siege of Tarragona, and of embarking your army at this place, at the risk of losing artillery and horses, I hope you will not be offended with me for suggesting to

you, that if your cavalry and artillery, with a column of infantry, were immediately put in motion to occupy the pass of Ballaguer, I think their retreat would be secure, and their embarkation certain. You might then at your leisure embark the remainder. Should you not approve of this plan, I have directed the Transports, which are in Salou Bay, to remain for the purpose of embarking such troops as may be sent round there, as it would be difficult, with an easterly wind, to get them round to this anchorage in time.

"I remain, &c.

"B. HALLOWELL.

"*Lieut. Gen. Sir John Murray, Bart.*"

Now, Sir, in this letter is there any engagement on the part of Admiral Hallowell to bring off the guns during the night? He advises a portion of the troops to be sent off at the moment of an expected attack, and tells me in so many words, that if I will send away a part of my army to check Marshal Suchet, when the whole would not have been more than sufficient, and if I will remain with the other part, which would have been insufficient to oppose General De Caen, whilst it had to blockade the garrison of Tarragona, and furnish the numerous working parties which the embarkation would have required, he tells me, I say, that if I will commit this egregious error, I may then embark the artillery at my leisure.

Such is the real proposal of Admiral Hallowell. I will in my Defence to the 3d Charge, I hope, most satisfactorily prove, I may say the wildness, of the proposed movement. Here I have only to observe, that this letter contains no engagement on the part of the Admiral, to take off the guns and stores during the night, and I think myself, therefore, intitled to insist, that, in this point, his Majesty's government, and the Duke of Wellington, have been quite misinformed.

Not satisfied with this series of misstatement and of censure, Admiral Hallowell then proceeds to predict, not only a complete failure of the enterprize which he conceives I was about to undertake, but of every other measure, which, in the course of my service, might come under my direction. Surely I may be permitted to ask every Member composing this Tribunal, whether, in the course of their service, they ever met with so indecorous and irregular an attack upon the military character of any officer as this? From whence could it spring, but from the most determined

personal enmity. Fearing, perhaps, that my measures might not be considered quite so unmilitary as he foretold, the Admiral took this means of rendering me an object of distrust to the Duke of Wellington, to his Majesty's Ministers, and the people of England; and thus, by insuring my recall from the command with which I was entrusted, he hoped, perhaps, to remove one determined obstacle to that general authority and sway over the operations of the army, which it was well known it was his ambition to exercise, and which I had at all times (but with every possible regard to his real station and authority) steadily resisted.

In this prediction of the Admiral's it is, however, rather singular that he should, very soon after the dispatch of the letter in question, have changed his opinion as to the operation referred to.

In less than 24 hours he became more anxious that the army should remain at the Coll de Ballaguer, than he has proved himself in his letter averse to it when undertaken. And the Admiral will recollect, that a very few hours before Lord William Bentinck's arrival, he strongly urged me to remain there, in opposition to the opinion of every general officer in the army, except one, who gave no opinion at all.

I venture, Mr. President, to hope, that Admiral Hallowell's decision, as to military talent or ability, is not final—were it so, indeed, I should still have the consolation to find myself inscribed in the extensive list with all these officers, who will not submit to be guided by his counsels, and to act under his controul. It may, perhaps, tend to shew the general line of conduct of Admiral Hallowell at this time, if I mention one very extraordinary instance of interference, and for which I should think it difficult to find any good or laudable motive. Every Member of this Court is well aware of the important duties attached to the situation of the Quarter Master General, and must be equally aware how very necessary his presence was at so critical a moment.

From any naval officer, therefore, it would have been expected, that he would have facilitated the junction of that officer with the General Commanding in Chief by every means in his power, and in doing so, he would have done no more than his duty.

Such, however, whatever may have been the opinion, was not the conduct of Admiral Hallowell, and I state it to the Court in his presence, that he actually, by signal, and repeated even with a gun, ordered the Bristol to anchor at

a great distance from the landing-place, at the Coll de Ballageur, with no other view as, I have been expressly informed, and can prove by those who heard this acknowledgment of his motive fall from himself, than to prevent the Quarter Master General from repairing to head quarters.

Well, indeed, might Admiral Hallowell predict misfortune, if he proposed by this exertion of his authority to deprive the army of the services of one of the most active and intelligent of its officers, and to cripple the most important of the departments by the absence of its chief.

The fact is notorious, and I will prove it; and I call upon Admiral Hallowell to assign any other reason for ordering the Bristol to anchor on the 14th June, than that to which I have ascribed it, namely, for the purpose of keeping General Donkin at a distance from head-quarters, and to prevent him from fulfilling the duties of the situation entrusted to him by his Sovereign, and which I am happy to have an opportunity of declaring he had ever executed with equal zeal and gallantry, and in a manner highly creditable to himself, and equally approved by me.

And here, Sir, I think it right to observe, not only in justice to General Donkin, but in justice, I may add, likewise, to myself, that the influence which the Admiral has constantly ascribed to this officer over my counsels, and with which opinion he has been so anxious to impress the army at large, is entirely without foundation. That I have profited occasionally by General Donkin's observations and opinions, I am perfectly ready to declare; but that I ever surrendered up my judgment to him, or any other officer under my command, I do expressly deny; nay, more than this, I do not hesitate to say, that in no one leading operation of the army under my orders, was General Donkin ever consulted till after my decision was formed, and that in many instances, and particularly in the transaction which is now under your consideration, I proceeded in direct opposition to his opinions; I acted throughout on my own responsibility; I stood alone, particularly on this occasion; I impeach no one's abilities; I accuse no one's errors; I stand still alone on this last occasion, and by my own responsibility, I am still content to stand or fall.

With respect to the general character of indecision, with which the Admiral has thought proper to charge me, I shall be silent.

Those with whom I have lived and served, will on this

point do me justice, and those with whom I am unacquainted will, I should hope, perceive clearly the motive for stamping with this blemish my military reputation.

I acknowledge I should have done better, had I, on several occasions, at this period, pointedly expressed my decisions to the Admiral; a fruitless wish to conciliate led me frequently rather to temporize than pre-emptorily to differ; but I can accuse myself only of one instance where I suspended for a short time the execution of my first intentions, in favour of any officer with the army, and that officer was Admiral Hallowell himself. I allude to the embarkation of the troops, which was suspended on the 12th of June, when I promised the Admiral, as he says, to remain till night. Further consideration, and a confirmation of events, however, induced me very shortly to persevere in my first determination; and from this circumstance alone it is, that this unprecedented, and (as far as I know myself) unfounded reflection, is published against me.

The court will easily imagine my anxiety to combine both objects; namely, the safety of the guns, with the preservation of the army; and will readily conceive that, when a ray of hope was held out by such authority, attended by all the force of earnest intreaty, it was well calculated for a moment to influence my mind.

In compliance with these intreaties, I did give orders to suspend the embarkation of the troops till the receipt of additional information; and after having directed that the stores and ordnance should continue to be embarked with all possible expedition, I rode out towards the Coll de Ballaquer, on which road I was aware how possible it was the army might ere night be in motion.

On my way back, I received a letter from General Copons, stating the enemy to be in motion directly in his front, on the road from Villa Franca, and confirming their continued advance in that direction. Not a moment was now to be lost in embarking the troops. My former intelligence perfectly justified the propriety of this measure, while the enemy was at a still greater distance. This last information, shewed his decided determination to attack me, and rendered, what was before a measure of prudence, in this instance, an act of paramount necessity.

It is singular, Sir, that the momentary suspension of my first intention, in compliance, and in compliment to the Admiral himself, should be now set forth as a ground of accusation against me.

In acknowledging it, however, I am no way ashamed. It was, under all the circumstances of my situation, a natural feeling to yield something to the intreaties and recommendations of the Admiral, particularly on an occasion when his hopes of bringing off the guns corresponded so entirely with my own earnest wishes to accomplish the same object ; and I am mistaken if the consent I yielded at this moment, to suspend the embarkation of the troops, is not the best proof of my desire to correspond, to the utmost of my power, on all occasions with Admiral Hallowell's wishes, while the continued advance of the French from Villa Franca, must satisfy the Court of the military principles that influenced my conduct, and the deliberate reasoning on which they were founded.

Under all these circumstances, I have no reason to apprehend any unfavourable impression on the minds of the Court, and beyond this I have nothing to fear ; for it forms no part of the Charges before it ; and if I have gone out of my way to observe upon it, it is because I have no one feeling relative to these proceedings that I am desirous to conceal ; and because I am as ready to rely on the candour of the Court, on the one hand, as I am to submit my cause to its honour and justice, on the other.

I believe, Sir, I shall be able to answer, without the smallest difficulty, all the principal contradictions charged against me in Admiral Hallowell's statement ; but if there be others of a minor and more trifling nature, to which my memory at this distance of time is unable to refer an answer, I intreat, on that account, I may not be condemned. If the object I pursued was uniform ; if the principles and result are found to correspond, surely, any apparent inconsistency alleged in the details, must necessarily be shewn to have arisen out of events which I could not controul. And here, Sir, let me intreat the Court to contrast the relative situation of the accused and the accuser ; and it will be evident at once, how hard it is to cope with my adversary in these matters of minor consideration. The critical position of the army under my command ; the approach of the enemy ; the nature of my instructions ; left my mind wholly occupied with passing events, and intent only upon the means to combat difficulty, and turn every new occurrence to advantage.

My time, Sir, was occupied, without a moment's intermission, to receive reports ; to understand their nature ; to distinguish between truth and falsehood ; to act on new

contingencies, occurring every hour in presence of a superior enemy; and to watch at once over the safety of my army on the one hand, and its honour on the other, was my particular province; and, Sir, to the utmost of my ability I did perform my duty. But what, I ask, was Admiral Hallowell's? Was it to make minutes of every part of my proceedings, (for this diary cannot surely be sheltered under the character of a log?) without registering, perhaps, even without knowing, the events that gave them birth; and that too, at a moment when he was, comparatively speaking, little more than a spectator of events, in which his own honour was no way committed. Surely, Sir, it is only necessary to draw this parallel to awaken your consideration.

If the spirit that has influenced Admiral Hallowell be not evident upon the very face of this proceeding, and if his letter to Lord Exmouth of the 14th of June, written almost at the same moment, be not an additional proof of the feeling that directed it, then, Sir, every deduction from cause and from effect, must hereafter lose its value, and fail to impress conviction on the mind. But, Sir, that is not the case; the candour of this Court has already done me justice, and I am content on this, and every other occasion, to repose my cause and honour in its hands.

But, Mr. President, it is not because the Admiral really himself conceived I was indecisive, that this accusation is brought forward; it is because I ultimately rejected his proffered counsels, and because he thought I acted in consequence of opinions given me by Major General Donkin.

Admiral Hallowell does, himself, almost tell us, that my crime, in his eyes, is the disregard of his advice: when he says, "that the guns were spiked and the carriages burned, by order of the Commanding Officer; although it was his decided opinion and advice to wait till night." This word, "although," gives, indeed, the true grounds of the violence exhibited on the part of Admiral Hallowell. I did, on this, and on some other occasions, follow, what appeared to me most conducive to the good of the service, although Admiral Hallowell counselled other measures. Upon this occasion, the dissent from his opinion was particularly galling; because, as I said before, the Admiral believed that I acted upon the opinion of the Quarter-Master-General of the army, between whom and himself no great cordiality existed. The inconveniences arising out of this circum-

stance are not easy to describe. . But I should never have intruded it upon the Court, if it did not tend, materially, to shew the difficulty of a Commander-in-Chief's situation, who had constantly to conciliate private feelings, and to struggle with the unfortunate misunderstandings of individuals, whose cordial corporation was so essentially identified with the interests of the service in which we were engaged. I must now, however, beg leave to state, that, had Admiral Hallowell permitted himself one moment's reflection, he must have perceived, that the intelligence of the enemy's immediate approach, on the forenoon of the 12th, or the information to this effect, which he has stated to have been given him by General Donkin, so far from weighing with me on this occasion, would have led me, had it been credited, to adopt measures directly the reverse of those I did pursue, and more in unison with the views of Admiral Hallowell himself.

Having said thus much, I shall have no hesitation in admitting, that I do not pretend to be of that positive disposition, that no counsel, however good, can change an opinion I may have formed; nor, is it my character to be so attached to my own plans, that no variation of circumstances can induce me to alter them.

Admiral Hallowell, perhaps, is not aware, that the operations of an army in the field must depend upon the movements of the enemy, and the intelligence which may be received; and miserably, indeed, would that army be conducted, where a blind adherence to any particular line of conduct formed the principal feature in the character of its Commander.

It would be a useless waste of the time of the Court, were I to attempt to bring further proofs of the Admiral's disposition towards me, at the time this unexpected dispatch was written.

I trust, without adverting to the general line of his conduct, and the general tenour of his conversation, to every rank that would listen to him, enough has been said to prove, to the satisfaction of the Court, how little reason there was to expect either a fair consideration of the subject, or an impartial representation of it, from Admiral Hallowell on this occasion. And yet he, himself, will not deny, that these are the essential qualities in a public dispatch; and, that without them, it degenerates into a dangerous instrument of public deception, and of private

injury—destructive of all military confidence, and leading to consequences of the most serious description.

Admiral Hallowell, I am satisfied, will not contradict me, if I attribute to him the wish, that you should be assured, that, in the discharge of a duty, imperiously pointed out to him, his dispatch was penned with all the deliberation and impartiality so grave and important a subject required; that, with a mind, divested of every personal feeling, he sat down, in a moment of perfect self-possession, to draw up a plain, unvarnished statement of facts; and, that his only anxiety has been, to detail, with all possible accuracy, a consistent, connected, and incontrovertible history, of the events which occurred on this occasion.

But, if such were really his sentiments—if such were his feelings—I may be allowed to ask, why we find so much violence --- I may say, so much virulence, in his dispatch? I may be allowed to ask, why a dangerous precedent (destructive of all harmony between the two services) is attempted to be introduced, by sending a copy of a criminating dispatch, addressed (nominally to his Commanding Officer) to mine? Why is all this attempted to have been done in secrecy, and without my knowledge? And why is this dispatch, I may almost say, published to the Officers under my immediate command? I admit, that it was incumbent on Admiral Hallowell to report to Sir Edward Pellew the issue of the expedition, and the share the naval forces under his command had borne in the service; and, I am likewise free to confess, that, if in the execution of this duty, he conceived any criminal neglect or misconduct had been imputable to me, it was equally incumbent on him, out of regard to his own character, and the high station he held, to have pointed out the nature of my misconduct; and, preferring Charges against me, through his Commanding Officer, Sir Edward Pellew, to have thus rendered me amenable to the only tribunal, before which could be either proved my criminality, or justified my innocence.

This would have been a conduct at once regular, temperate, and judicious. It would have been consistent with the rules, as well as the dignity of the service; and would have answered all the ends of national and public justice.

Had such been the conduct adopted by the Admiral, however I should have lamented the blindness with which he had undertaken the accusation; however I should have

regretted the preference he had given to the weakest sources of information; however sorry I should have been, that his ignorance of the general and true purposes of the expedition had led him so far out of his depth, I should at least have had to acknowledge, that his conduct had been candid and open—consistent with the established usages of joint service, and with what was due from one British officer to another, and how much soever such proceeding of the Admiral's might have lessened his claim, in my opinion, to the character of a wise and prudent commander, yet should I (I may truly say, though the object of attack) have been the first person to applaud the fair and honourable manner in which he had discharged a grave and important duty in support of the honour of his country.

I shall now, Sir, dismiss this extraordinary document, with the simple request to the Court, to observe how very widely Admiral Hallowell has travelled from that representation, which, in the exercise of his duty, might have been necessary. I could, indeed, add much to what I have already said on the subject of this dispatch, but, I trust, I have stated enough to prove the disposition in which it was penned. Other, and very convincing proofs of personal animosity are not wanting, if I thought it necessary to introduce them. I shall content myself with laying before the Court the last act of the Admiral's hostility, whilst I still held the supreme command of the army, and a very short time after I had again rejected his proffered counsel of continuing the operations at the Coll de Ballaguer, the commencement of which he had so earnestly deplored. I allude, Sir, to the signal which was made from the Malta by his orders, when the vessel in which Lord William Bentinck was embarked, appeared in the offing. After enquiring whether his Lordship was on board, in the face of the fleet, in the presence of the army still under my command, the signal was made, "we are all delighted."

It is not my intention to call in question his right as an Admiral to make what signals he may choose, but I leave it to the minds of the Honorable Members of this Court, if the exercise of it in this instance was not an unbecoming abuse of an authority placed in his hands, for other purposes than those of displaying private animosity and pique; and if it had not a strong tendency to countenance discontent and clamour in the army still under my com-

mand, and in which, even after Lord Wm. Bentinck's arrival, I still continued to hold the second place; yet, that he did this I shall prove; and having done this, leave the action to comment upon itself.

I now, Mr. President, come to the consideration of the Charges, which place both this Honorable Court and myself in a situation which, I may venture to say, is equally singular and unprecedented.

Two prosecutors have appeared against me contending for my conviction, upon principles completely contradictory, and in direct opposition to each other---the natural consequence of the extraordinary proceeding of my real prosecutor, Admiral Sir Benjamin Hallowell.

The Judge Advocate, who conducts, in his public character, the first two Charges, has felt this difficulty, and has adduced no proofs against me, except from such documents as were originally furnished him, and as were made the groundwork upon which the Charges were directed to be framed by himself. That he has done so with great ability, I am ready to acknowledge; and I am happy to take this opportunity of returning him my thanks for the candour of his statements, and the liberal and conciliating manner with which his public duty has been performed. In his observations upon this evident inconsistency, he very truly states that Admiral Hallowell may so conduct his case, as to make the Charges correspond with each other, and that I am open to animadversion for having continued the siege too long, as well as for improper precipitation in the manner of abandoning it. But such a mode of proceeding neither accorded with the facts stated by Admiral Hallowell, nor with the original attack made by him on my character.

The trifling difficulty arising out of a total inconsistency between the First and Third Charges, was not worthy Admiral Hallowell's notice. He has, accordingly, made no observations on the subject, and, instead of co-operating with the Judge Advocate, he has contented himself with a vain attempt to prove that no enemy was near---that there was, consequently, no occasion to raise the siege, or, at all events, that this measure was totally unnecessary, on the particular day in which I carried it into execution.

In the First Charge, I begin to sin on the 7th; my crime, of course, increases on the 8th; to continue on shore on the 9th, 10th, and 11th, must naturally have augmented the sum of my offences, as the advance of the enemy rendered

the danger more pressing; and yet, on the 12th, when to have remained, would have been an accumulation of guilt, the reverse of the picture is displayed; the superior force of the enemy disappears, all cause of alarm vanishes; the information I had received, and the belief I had attached to it, are no longer exhibited to you, and this Court and the world are informed, that my embarkation was not only precipitate, but unnecessary. Even, Sir, the very circumstance of the difficulties of the coast, and the consequent danger and delay of an embarkation, may be supposed to involve me in an embarrassment. If I am led to deny such to have existed in the 1st Charge, and should attempt successfully to prove, that the beach was at all times safe, practicable, and defensible, with the view of justifying the delay of embarkation, these very proofs might, and, probably, would be, urged against me, as grounds of conviction, when I am accused, as in the 3d Charge, of a precipitate decision to re-embark. I am well aware, that the Charges were not framed with any view to embarrass me with these contradictions, but solely for the purpose of bringing under consideration, the whole of the subject; and, difficult as it may appear, to escape from one conclusion or the other, I am confident I can accomplish the task, to the conviction of the Court, and to the satisfaction of my Sovereign and my Country.

Having made these general observations upon the three Charges, as contrasted with each other, I will now proceed to the first military offence of which I am accused, viz. For landing, or continuing on shore when landed, between the 7th and 12th of June, near Tarragona, a large quantity of heavy artillery, ammunition, and stores, when I had good reason to believe that no real benefit could be derived for ten or twelve days as to producing the fall of Tarragona by these means, and when I had received information, which I believed, that long before that time, a superior force would be near me, and was aware that the siege must then be abandoned, knowing, at the same time, the great difficulty and dangers attending a sudden re-embarkation on that beach, such conduct being highly unmilitary, and against the spirit of my instructions.

It is not easy to meet this Charge, from the mode, Sir, in which it is worded, without entering into some little detail. I will, however, with the permission of the Court do this as shortly as possible, and the difficulty will vanish as I advance.

Upon first seeing it, I had concluded that I might rest satisfied with denying, that, previous to the 11th, at night, any intelligence whatever had reached me, on which, in my opinion, under all the circumstances of the case, I should have been warranted in abandoning the enterprise committed to my charge.

With the Judge Advocate, I concluded it must then naturally rest, to prove such to have been the case. I expected, that to establish the military offence against me, he would prove, that I landed, or permitted to remain on shore, a quantity of heavy artillery, ammunition, and stores, superfluous and unnecessary, for the service on which the army was employed; that he would also prove, not only that no real benefit could be expected, as to producing the fall of the place by these means, but that I believed this, and further, that this quantity of artillery, ammunition, and stores, was landed, and permitted to remain on shore unnecessarily, after I had received information, which, in the words of the Charge, I also believed, that long before the possible capture of the place, a superior force of the enemy would certainly be near me. In addition to all this, I expected he would have proved, that no advantage to the service in any way could be gained by this delay, before he entertained the hope, that my conduct could be condemned as unmilitary; and, lastly, that he would point out to this Honourable Court, in what respect I have deviated from the spirit of my instructions.

Upon a careful perusal, the Court will, I am sure, perceive such to be the nature of the Charge, on which the Members are called upon to decide, and that all these points must be proved, before I can be condemned.

The whole crime alleged against me, appears to hinge upon my belief; I must be proved to believe that no real benefit could be expected after the 7th, in continuing on shore, and to have given implicit confidence to the information I received of the enemy's movements, before the Charge, as worded, can be established against me.

I own, Sir, that I should have wished that the Charge had been more general that all notice of my belief, and my information, had been omitted, and that I had been broadly and fairly accused of having remained before Taragona unnecessarily, when no possible advantage could be derived to the general cause, and when it was contrary to the spirit of the orders under which I was acting. It appears to me, indeed, that, in this shape, the task of the

Judge Advocate would have been much more simple; it would then only have been necessary for him to prove these facts. It would not have been expected of him to dive into the recesses of my breast, to discover what I did, or did not believe, or to explore my port folio, in search of secret information, stamped too, when found, with the seal of my belief.

No attempt has been made to establish the Charge by any such evidence; nothing is produced but my letters, from which general inferences are drawn, as to my belief of the approach of the enemy, and constructions are put upon them wholly unwarranted, as I will shew, by any thing contained in them, and wholly in opposition to the fair and natural import which I contend they possess.

When I first saw the Charges, I confess I was at a loss to conjecture why the 7th was expressly pitched upon as the day on which, from my belief of the advance of the enemy, I should have desisted from all further operations of the siege. The Judge Advocate has relieved me from all doubts on this subject, by the production of my letter of the 7th of June, to the Duke of Wellington, under whose orders I was acting.

This letter is already before the Court; but, as I propose commenting upon it, I beg the permission of the Court to read it at present.

*" Camp before Tarragona,
June 7, 1813.*

" MY DEAR LORD WELLINGTON,

" I AM much afraid we have undertaken more than we are able to perform; but to execute your Lordship's orders, I will persevere as long as prudence will permit. I have, as yet, no certain information of Suchet's movements, nor of De Caen to the Eastward, but there are reports of both, and if they prove true, in five or six days I may be attacked by a force, infinitely superior, without the hope or chance of a retreat, in case of misfortune. I calculate, that Suchet can bring into the field 24 or 25,000 men, without difficulty, and my force, supposing the Spaniards really have what they say they have, will not exceed, of all sorts, nineteen thousand, of which I must leave 4000 at least, to cover our guns and mask the garrison. To secure our left flank, and prevent Suchet's direct march upon Tarragona, I have attacked the Coll de Ballaguer, and I expect it to fall to-morrow, or next day. With respect to the first army,

" I can say nothing further at present, but that they seem
 " very willing, but very weak. Your Lordship has directed
 " that they should garrison Tarragona, in case it should
 " fall. This will diminish their numbers very considerably,
 " and make them unfit for any thing. I venture, there-
 " fore, to propose to your Lordship, that 3000 men should
 " be sent for that purpose, and if you could send some
 " recruits for their regiments, I think it would be of ser-
 " vice, as the Catalonians desert so much. Colonel Ca-
 " banes gives me every assistance in his power; but, I
 " perceive, has too little assistance in Staff Officers, three
 " or four more would be well employed, and are necessary;
 " money and clothes are both much required, at least they
 " tell me so. The Admiral proposes sending a ship to Ali-
 " cant to day, I believe. I have just had time to write
 " these few lines. I have, &c.

" J. MURRAY."

Is there, Sir, in this letter one word of admission of the march of superior forces of the enemy? Can I be said to despair of the capture of Tarragona, when I am asking troops to garrison it? And is not the whole of the latter part of my letter evidently founded upon, and connected with, this contingency? I tell the Commander-in-Chief, that *I have no certain intelligence of Suchet's or De Caen's movements; that reports are in circulation, and what, if they prove true, the consequences may be.* But as to the reports, I might have told his Excellency that such reports had been in circulation almost from the day of our disembarkation, and that many others had been so likewise, which had been found to be false. Out of the multitude of instances that occur to me, I hardly know which to quote as an illustration, but among others Colonel Prevost besieging the Fort St. Philippe, at the Coll de Ballaguer, reported to me by express on the 4th, and in such haste that he had not time to write, that he expected to be attacked by Marshal Suchet in person at latest the next day; and Admiral Hallowell, as early as the 7th, the day on which Marshal Suchet quitted Valencia, misled by these reports, actually sent an additional naval force to check the immediate approach of the Marshal, at the bridge of Amposta on the Ebro. With respect to the consequences which I foresee and foretel in this letter, they were no other than what I expected, they were no other than what I had predicted to the Duke of Wellington in a letter from Castalla, dated the 11th of May; and what, perhaps, will weigh still more with this

Court, they appear to be expressly what his Grace did himself anticipate, in his answer of the 23d of May, namely, 'that I should find the enemy more than a match for me.' This letter, of the 7th, to the Duke of Wellington, which I have just read to the Court, was rather an accidental communication, than otherwise, occasioned by the opportunity of a ship proceeding to Alicant. In the course of it I mention the prevailing reports of the day, but I mention them with the express reservation, that they are still unconfirmed, and found my calculations of failure only upon the possible realization of them, and not upon the circumstances of my actual situation.

I do then, Sir, in the most direct terms, and with all due respect, assert, that on the 7th no event had occurred, no circumstance had come to my knowledge, upon which I was in the smallest degree authorized to abandon the enterprize, committed to my execution by his Excellency the Commander-in-Chief.

That I was never sanguine of success is most true, for before I sailed I did not expect that Tarragona would fall, unless it could be directly assailed; but that any thing had occurred up to this period to diminish my expectations, I do most solemnly deny.

From the moment the place was found impracticable, it was evident that nothing but some fortunate chance, or some derangement in the march of the enemy's columns, or deviation from the direct line of operation, could put us in possession of the place; but these chances, so far from being diminished on the 7th, were, in as far as regards the last mentioned circumstance, materially increased in our favour: for on this day, Sir, when I am said to have despaired of success, the Fort St. Philippe fell, the possession of which sealed the shortest and most direct road to the progress of the enemy from Tortosa. Was this, then, a day, Sir, when I should, in a particular manner, have begun to despair? Was this a day when I should have desisted from the operations against the place, when the difficulty of relieving it became much increased, and the knowledge of this difficulty might be naturally expected to produce a corresponding effect upon the minds of its garrison? Sir, on this day, so singularly pitched upon to convict me of despair, was it, that I first entertained a ray of hope, not so much of the capture of Tarragona itself, but that the expedition would prove, as the Duke of Wellington wished it to prove, an effectual diversion in favour of the

Allied army in Valencia. Without this acquisition, which was made on the 7th, I could not have remained after the 9th; and I have no hesitation in saying, that in my opinion, without the possession of the Coll de Ballageur, the position of the army, from the instant of the landing, was extremely critical.

On the 8th we were still in the same situation as on the 7th, the reports of the 6th were found to be false. On the 8th, likewise, many of those alluded to in my letter to the Duke of Wellington, already produced to the Court, proved to be entirely without foundation, and none were confirmed.

It was evident, therefore, that the whole could be grounded only on the probability of the occurrences which were rumoured, and which, let it be remarked, did not correspond with the information received through other channels, and were exactly that sort of report, which, from their nature, there was every reason to believe were invented by the enemy himself, and propagated by his partizans and numerous spies in our camp. Yet, Sir, such is the only foundation on which can be assumed my belief of the immediate advance of a superior enemy, which was to force me to raise the siege, and deprive me of the benefit of the preparations which I had made. I will not ask a Court, composed of such distinguished and experienced Officers, if, upon reports so vague, often contradicted, and wholly unconfirmed by any regular intelligence, I ought to have desisted from any enterprize; and more particularly from one of such importance, and ordered by the Duke of Wellington, when other and most important advantages were the certain consequences of perseverance?

Those, Sir, who are not responsible; those, Sir, to whom all authentic sources of information are barred, may be under the influence of such communications, and may be forgiven, if their hopes rise and fall in proportion as they appear to them to be confirmed or contradicted; but it is the business of the General, I conceive, who commands, and to whom the honour, as well as the safety, of the army is entrusted, to calculate and combine upon those occasions, to compare a rumour with information received from his more authentic sources of intelligence, and carefully to guard his mind from all impressions which might be made upon it, by the circulating reports of the day. We know, Sir, how very common the practice is, in all armies, to fabricate intelligence, with the view of deceiving the enemy. We know that the French Commanders in the

late war pushed this stratagem further than, perhaps, ever before was practised; and where this well-known deception was so evidently to their advantage, I stand accused, before a Military Court, as guilty of a Military offence, in not having blindly run into the snare laid to entrap me; and in not having followed a delusion, too evidently raised with the view of misleading me from that direct line of operations, which my own judgment, and the orders of my superior officer, pointed out to me to pursue. I do not affirm, because I cannot prove it, that the rumours alluded to were of French fabrication; they bore, however, every mark of it, and this is a certain fact, not only did they not correspond with my more authentic intelligence, but they were even contradicted by it, and the next day brought with it the complete refutation of those very rumours, the disbelief of which is now imputed to me as a crime.

I return to the meaning of the words between the 7th and the 12th. My observations, hitherto, have been directed to the first interpretation that may be put upon them, namely, that the 7th was the express day when I discovered and saw the impossibility of success. To the second, which may convey the idea, that the intelligence which I am accused at once of believing, and of disregarding, was received between the periods in question, I beg leave now to draw the attention of the Court. If such be the construction it is extremely vague; and it must be very clear to the Members of this Court how important it is, that the time should be more correctly and precisely stated, because, admitting it to have been my duty immediately to have commenced the embarkation, when intelligence of the approach of the enemy's columns was believed by me, the degree of guilt must naturally depend, not only on the length of time which I remained, but on the distance also at which those columns were removed from me. For instance, supposing the intelligence to have reached me on the 7th, I may be found guilty of lying idle for four days, a delay of less duration might somewhat, perhaps, lessen the degree of criminality, even if the weather would have permitted the embarkation; but if it should be found that the authentic and definitive intelligence was received on the 11th at night; if at that late period of this given time only, such intelligence reached me as could warrant the step on which I decided, I should hope, even had I deferred giving orders for the embarkation till the morning of the 12th, no very great degree of blame could be attached to me. But of this influ-

gence I stand in no need, for I affirm, and I shall have no difficulty in proving, not only that I gave the necessary orders for embarkation on the night of the 11th, and as soon as the circumstances rendered it indispensably necessary; but I can prove by the return of Lieut. Colonel Williamson, that so far from being idle, 26 pieces of artillery were re-embarked during that night, and the morning of the 12th.

But, Sir, as the Judge Advocate has not had it in his power to put the Court in possession of the exact periods, when authentic intelligence of the movements of the enemy's columns reached me; and has, therefore, been compelled to rely upon my letters, which I have shewn do not warrant the inference he has attempted to draw from them, I will now, with the permission of the Court, give this most important information; and after having done so, I will expose to the view of its Members the whole grounds of my conduct at this period. I hope, from the facts I shall state, and the reasoning I shall found upon them, my conduct, so far from being unmilitary, and against the spirit of my instructions, will be found consistent with the just principles of the profession on one hand, and in strict obedience to my orders on the other.

The extent and currency of prevailing rumours have been already noticed. It is, I repeat, to the exact periods when regular intelligence, and such as could be depended upon, reached me, that I now beg leave to draw the Court's attention. I knew, indeed, to a certainty, even before the 7th, that strong detachments of the enemy had arrived at Tortosa; this, however, proved nothing, the common precautions for the defence of that place required these reinforcements, as it had a garrison only of 400 men when we landed at Tarragona. But, Sir, on the 8th, all doubt, as to Marshal Suchet's march to the northward was removed. On the morning of that day a messenger arrived from Valencia, dispatched by one of our most confidential agents, and furnished with the private signal agreed upon, with the certain intelligence, that 9000 men, from St. Philippe and the banks of the Xucar, had quitted Valencia; and that the Marshal himself, on the 7th, had followed them.

The late political changes in Spain fortunately enable me, without hesitation, to mention the name of this meritorious individual, who furnished this and much more information at the imminent hazard of his life, and without fee or reward from us; it was Don Vincente Lorente, a

person of education and respectability, holding the department of Inspector of the Botanical Garden, under the French Government at Valencia. I regret to say that he lately died. His testimony on this, as well as on the 3d Charge, would have been most essential to me.

The original note, however, transmitted by him to me, is still in my possession, and will be laid before the Court, together with a certificate from Mr. Consul General Tupper, of the payment of the boat which was freighted for the express purpose of conveying to me this important information.

With respect to the French army under General De Caen, it was rumoured, indeed, to be in movement, but could I ever have expected that it would not be united, and that his moveable columns would have remained divided at Gerona Pinzcerda, and Barcelona, unconcerned spectators of the arrival of an army in the Province. I knew, however, that it was not assembled on the 8th, and that it had not reached Barcelona, about 60 miles from me, on the evening of the 8th. On the evening of the 10th I learnt, that by forced marches, it had reached the Llobregat, and that it was advancing with rapidity. This intelligence was given me by General Copons, whose division I found in movement at Reus, about 4 o'clock on that day.

These, Sir, are the exact periods when I received positive intelligence as to the enemy's movements, and I venture to hope, that the Court will be of opinion, that to have abandoned the siege, or to have relaxed in the preparations to bring it to a speedy and successful termination sooner, would have been a direct and positive breach of my duty, as the Executive Officer acting under the orders of his Excellency the Commander in Chief. Had, indeed, the expedition been undertaken of my own authority, I might have paid what attentions I pleased to vague reports, and have varied the plan of the campaign as circumstances occurred. But, Sir, the contrary was the case, and not only was this expedition no plan of mine, but it was, to my certain knowledge, and as my recorded instructions prove, a part of a great general plan, the success of which depended, as I hope hereafter to demonstrate, upon my remaining before Tarragona to the latest possible moment.

On the 8th, then, it was, that I first received information of any movement of the corps near Valencia, and on the Xucar; and on the evening of the 10th was it only, that the approach of General De Caen's column, from the

eastward, was certainly known, as will be proved by the reports of Colonel Manso, which will duly appear before the Court. Still, however, no physical impracticability in conducting the siege of Tarragona to a successful termination appeared. There might be something, no doubt, to excite apprehension on the 8th, but there was nothing to create despair. The enemy was in march upon me it is true, but one flank only, and that the least vulnerable, by the possession of the Coll de Ballaguer, was threatened, and the line of his operations was not determined. Should I have been justified, under such circumstances, in a premature abandonment of the siege, after the assurance I had given the Duke of Wellington, that I would persevere till the last extremity; and feeling as I did, that every hour that was gained, gave extension and strength to the operations of the Duque del Parque? Besides, Sir, this march of the enemy was not an unforeseen event, calculated to alarm me by its novelty, or to surprize me by its suddenness. In my letter of the 11th of May to the Duke of Wellington, I expressly stated my expectation of this movement, and his Excellency, in his letter of the 23d, does not countermand the expedition on that account, but simply contents himself with observing, that even with weaker numbers than those I had stated "he would be more than a match for me."

Is it possible, Sir, that that officer can exist, who can be of opinion, that the mere execution of an expected movement of the enemy from Valencia, should have induced me to abandon this enterprize, whilst, at the same time, he condemns me for expeditiously raising the siege after this same enemy, aided by another and formidable column, appears, I may say, in front of our lines? It was Sir, on the 10th that I first received certain information of the assembly of this last column, I mean General DeCaen's, and its numbers. With this information the grounds for apprehension, doubtless, increased, but the despair I am accused of certainly did not influence my conduct even at this moment. It became necessary, indeed, to decide whether the embarkation should take place immediately, or whether a portion of the battering train should be risked with a view to continuing the siege to the last extremity, and of drawing the enemy's armies towards me, and I determined to risk it.

The risk, Sir, was a cause of anxiety, but the objects

in view were more than a counterbalance to it, and I should have been ashamed to consider it as a ground of despair.

While the direction of Marshal Suchet's march was still undecided, I determined to attack the opposite column, whose route was declared, and whose marches were forced. With this view I decided on the 11th, on marching a corps of the besieging army to the Gaya, and gave orders for the storm of the Fuerte Reale, an outwork of the place. These were, indeed, moments of anxiety, for the crisis I had long foreseen was approaching, and I could not be blind to it. I had deliberately foreseen, and deliberately placed myself in this situation, but despondency formed no part of my feelings, or I should never have resolved in committing myself to the extent of such decisive operations. But on the 11th, Sir, and only on the day before I thought the action would probably be fought, and not even an hour before the assault was actually to be given, I received the positive intelligence that Marshal Suchet had arrived and marched from Tortosa, and from that moment, and that moment only, namely, 9 o'clock in the evening of the 11th, I do most freely confess, I was convinced that every attainable object was accomplished, and that to have persevered in the siege would have been the height of temerity and imprudence.

The physical impossibility of success, then became apparent to all who were not wilfully blind; I then saw all chance of capturing Tarragona had vanished, I saw that without exposing my army to destruction, I could not hope to draw Marshal Suchet farther from Valencia, and his positions on the Xucar. I certainly believed that no real benefit could be derived by a further prosecution of the siege. I had then the certain and the indisputable information, that a very superior force of the enemy was near me, and knowing the great difficulty and delay attending the embarkation, I lost not one moment in giving the necessary orders that this operation should commence. If, Sir, after this moment, which I again repeat, is nine o'clock in the evening of the 11th, I shall be found guilty of procrastination; if it shall be proved that I neglected the necessary steps, or omitted the necessary orders, for embarking the stores and the army, then, indeed, Sir, I must be found guilty of the Charge, and be visited with the just, but merited disapprobation of the Honourable Court, before which I now appear.

I beg permission of the Court here, to call to mind that

the question I am now discussing, refers only to my belief, of the absolute and physical impossibility of taking Tarragona; and has no reference to the other objects which entered so decidedly into my contemplation, and likewise I may add into the spirit of my instructions. But waiving an observation on these latter points, surely the measures adopted on the 10th, when the assembly of General De Caen's army on the Llobregat was reported; and on the 11th, when Marshal Suchet's arrival at Tortosa, was not yet ascertained, are the most satisfactory evidence against the belief on the first question imputed to my charge.

So long as I considered myself only opposed to the column of General De Caen, I resolved to meet it, and for this purpose I concerted, on the 11th, with General Copons at Vendrills, a plan of operation. The position was already fixed on, where our united force was to receive the enemy; and the Hussars of the British army, with two pieces of cannon, had already marched to join the Spaniards in their position. All this was arranged upon the 11th, and if more may be wanting to satisfy the Court of my disinclination to despair of success, till the last moment, I have simply to repeat, that the orders here issued for the assault of the Fuerte Reale, on the night of the 11th, and that the receipt of the intelligence of Marshal Suchet's arrival at Tortosa, alone prevented the attack a few minutes before it was destined to take effect.

Surely, Sir, there can be no stronger proof than these facts, and they have been already proved by Admiral Hallowell himself, that I at least did not relinquish all hope of success, till this moment, that I at least saw no certainty of failure, till (to use Marshal Suchet's expression,) "the fires of his army crowning the heights around us, conveyed to the garrison, the intelligence of his approach;" and was I, Sir, listening only to my own suspicions of what might happen, calculating only every thing against us, and nothing in our favour, giving credit only to vague and unfounded rumours? Was I guided by these, to abandon an enterprize of so much moment? Was I to pause, and to compute the value of a few pieces of artillery, while the smallest prospect of success remained? No, Sir, I am sure this Court will never hold such an opinion, but it will rather agree with me in the belief, that my evident duty was to persevere till the last moment; to use and to display all the means in my power, whilst a ray of hope remained; and to feel that a premature abandonment of the siege, would have disgraced the Commander, and with him the

army under his orders, more than the loss of every piece of artillery contained in its park.

Hitherto, Sir, I have confined myself in these remarks, to disprove the Charge, taken in the sense, that I was acting from certain information, and with the belief, that no other consequences could ensue, but those which we have seen did occur on this occasion.

To me, the Charge bears this construction, and, I hope, I have repelled it; but, although I feel confident that I stand fully acquitted, and that the Charge is entirely disproved, yet, the deference I owe to this Honorable Court, and the regard which is due to my own character, induces me to request permission to enter more at length into the subject, and to lay before you the motives by which I was really actuated throughout this operation, and which, I venture sanguinely to hope, will be found neither unmilitary, nor as militating against my instructions.

Were I, Sir, not unwilling to load your proceedings, and to encroach upon your time, I should here request permission of the Court again to read, and again to insert, the Duke of Wellington's instructions of the 14th of April, under which I was then acting; they are, however, already before the Court, and, as they can easily be referred to, I shall refrain, however anxious I may be that they should be deeply impressed upon the minds of the Members. From these instructions, it is quite evident that the siege of Tarragona had for its view two objects; the first was the capture of the place; the second was to produce such a diversion in favour of the Duque del Parque, as should enable that officer to force the line of the Xucar, and from thence possess himself of the Kingdom of Valencia. It was to accomplish one of these objects certainly, and both eventually, that the Duke of Wellington directed the Allied army, then under my command, should be embarked at Alicant; and I conceive it will not be disputed to have been my duty to use every effort in my power, that both should be attended with the most complete success; and, further, if one should unfortunately fail, that every exertion should be made to ensure a successful issue to the other. To bring to a fortunate termination that part of the plan more particularly entrusted to my management, was, certainly, my first duty, and to bring it to a successful issue within the very limited time afforded me, it was not only necessary to use all the means in my power, but, likewise, to display those means, with a view always to the moral effect which such preparations, and the due exhibition of

them, naturally produce, in the minds of a besieged garrison. Had, indeed, the attempt on Tarragona been simply a feint, other measures might have been advisable, but that was not the case; it was not intended simply to delude the enemy; it was undertaken, in conjunction with other views, with a prospect to the capture of the fortress, as a vigorous and real attack, and a display of our means was necessary to the object itself, and to the acceleration of it; but, Sir, independent of the consideration in the situation in which the army was placed, this display became not only a measure of policy, but a matter of necessity, from the inconveniences of the beach with which we had to contend.

Such, Sir, being my view of the Case, and I confidently believe it to have been a truly military one, I had no difficulty in landing, with all the expedition which our means and the weather would permit, every thing which was required in the ordnance or engineer department; and I do seriously believe, that every thing lost, was on shore before the 10th, even if then it had been proved I despaired of success. The Charge runs, "for landing, or permitting to remain on shore when landed," in which, however, there is a very material distinction. The latter part of this assertion, I certainly have no hesitation in admitting; but, I must remark, that no evidence has been brought forward to prove, that after the 10th, any guns were landed. I confine myself, therefore, to the permitting the artillery and stores to remain on shore, and here I will ask at what time I should have commenced the embarkation? I have, I hope, sufficiently demonstrated, that I never saw, till the night of the 11th, any physical impossibility of success, and no necessity for embarkation could, therefore, till that moment, occur to me.

•It was, Sir, only on the morning of the 6th, that the first batteries were opened on the Fuerte Reale, an outwork of the place. On the evening of the 7th, another battery was constructed, which opened its fire on the morning of the 8th, and in the evening of that day, the first batteries which were to play upon the body of the place, consisting of ten pieces of cannon, were commenced and opened their fire only upon the morning of the 11th. These facts have been proved by the evidence on the part of the prosecution. Are these marks of desponding, or is it during the time these batteries were constructing, that it would have been a military measure to embark the cannon destined to be placed in them?

The greatest part of the guns, Sir, had been but one night in the batteries, and had they not been some days before landed, the works would have been finished, and from the uncertain state of the weather, I might have found myself without a piece of ordnance ready to open from them.

Why, Sir, on the very night when the siege was raised, fresh works would have been begun, and probably completed, as working parties of very considerable strength were paraded for that purpose. I do not state what number of guns would have been required for these works, but I am quite sure, that in the course of a very few days, as Colonel Thackeray was then prepared to push the siege with the utmost vigour, that nearly all the cannon disembarked, would have been mounted in battery. I beg too, the Court will recollect, that it was necessary to have some spare guns on shore, to supply the place of such as might be damaged by the fire of the enemy.

It is not charged against me as a crime, that in the first instance the cannon and stores were landed. Now, Sir, what would have been the consequences of re-embarking them?

This operation must have been performed in sight of the fortress, and could I take any step calculated more directly to give spirit and encouragement to the garrison, or tending more to deprive myself of all the fortuitous circumstances which so often occur in war, and particularly in the attacks of fortified places? In this case, I had more than the usual chances in my favor.

The magazines of the enemy were not bomb proof, and I had reason to believe, that the Italian part of the garrison, was not only dispirited, but disaffected; a disposition, which the fatigues of the siege, and the appearance of a determination to persevere on our part, could not do otherwise than encourage and augment. I acknowledge, too, Sir, that however erroneous my information may have been, I calculated a little on the reported character of the Governor; but having made this observation, it is but justice to General Bartoletti, to say, that in as far as I had an opportunity of judging, and from what I have since known of his conduct, when Lord William Bentinck was before Tarragona, the information was false, and upon the character of that officer, no reasonable hopes of success could have been founded.

It has been said, that in opposition to the opinion of the Chief Engineer, who on the 8th or 9th, declared that the place could not be expected to fall in less than 14 days, I

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ought not to have taken into calculation, any of these fortuitous circumstances, of which I was unwilling to deprive myself.

This, Sir, to a certain extent is true, and if in my operations, I had been directed simply with a view to the capture of Tarragona, I should have had no hesitation in admitting it, but my object was two-fold, and it was no less important to extend the siege to the last extremity, on the one hand, than it was essential to capture the place, if possible, on the other.

Colonel Thackeray, had himself before stated his opinion, that from the commencement of the siege, in 10 or 12 days we should be masters of the place, and six of them were already elapsed. Colonel Catanelli, an officer of great experience, and a good engineer, had made very nearly the same calculation, and Sir, in less than 48 hours after the siege was raised, did Colonel Thackeray to myself regret it had not been persisted in to that hour, as we should, he thought, by that time have been in possession of the fortress. Such language report, possibly erroneous, states that he still holds, and although I do agree with him as little in this as in his calculation of 14 days, it still is a proof that others, and even professional engineers, discover that fortuitous circumstances may be of advantage, and that he saw no physical necessity for despairing of success, without which, I contend, I should have been highly culpable, had I abandoned the siege, or even in the slightest degree relaxed in my efforts. But, Sir, the operation in which I was engaged, was as the Duke of Wellington has stated, to be an operation of time, that is, it was a matter of experiment, whether a sufficient time would be afforded me, to accomplish my object before Marshal Suchet should arrive with superior means, to force me to abandon it.

This very expression of the Commander of the Forces, shews at least, that no great superfluity of time would be allowed me; but I think it conveys a very clear instruction, likewise, that I was expected to push the experiment as to time, to the utmost extremity, consistently with the safety of the army, and its moveable equipment for the field. Now, Sir, suppose on the 7th, or even on the 9th, that I had given up the siege, and embarked the cannon, how could I have answered to his Excellency, or to my country, for not having made the experiment as to time? Could I, on the 7th, have pleaded the advance of the enemy when no such cause existed, or on the 8th, when I

first only learnt the march of Marshal Suchet from Valencia, and whilst he was at so great a distance, or on the 9th, 10th, or 11th, when the direction of his march was not ascertained, and when I might, and did entertain, a very reasonable hope of engaging the column from Barcelona, before the Marshal should arrive? No, Sir, on none of these days could I, with propriety, have adopted so unwise and pusillanimous a line of conduct; I could have had no motive for it but one, namely, a fear of clamour, and a dread of the responsibility which such clamour might occasion. I hope, Sir, I am above such fears. I hope, Sir, such considerations will never deter me from doing my duty, and I have given a strong proof of such feelings, for whether I have acted with propriety or not, I have, at least, the satisfaction of knowing, that I foresaw and foretold the possible consequences; and that, in a conscientious discharge of my duty, I exposed myself to all the illiberal and unfounded attacks which have been made upon me.

Now, Sir, it remains to be examined, while still on the subject, of the possible capture of the garrison, what proof I had of the line of operations which Marshal Suchet would pursue? In the first place, it appeared to me, and to the Duke of Wellington himself, to judge by His Excellency's Orders, by no means improbable, that the French General would endeavour to dislodge the Duque del Parque, from Castalla, before he turned his attention to Catalonia. He certainly had sufficient time so to do, and, it is more than probable, that in the attempt, he would have so crippled that corps, that he need have been under no apprehensions from it for a very considerable time. Had the Marshal so acted, I gained, at the least, three or four days, and the Marshal could not have been in presence of my army till the 16th or 17th. The Court will recollect, that it was not till the 8th that I knew that he had not taken that course. But, Sir, even after I was informed of this, the direction of the march of the enemy still remained to be ascertained. In the Memoir, written by Colonel Cabanes, the Chief of the Staff of the Catalonian army, which I shall lay before you, he argues, and argues ably, to prove, that the retreat of the Marshal would be on Saragossa. Whether this was probable or not, it is of no great consequence to enquire, suffice it to say, it was so in the opinion of a very able officer, and, at all events, it was possible, and I have little doubt, such would have been

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the line of his retreat, had not the march of the Duke of Wellington's army been retarded, by the unfavourable weather, at the commencement of the campaign, and had the Battle of Vittoria, consequently, been fought a very short time before. Here then, Sir, again there was another probability of an extension of time, that might have given me Tarragona, and my intelligence from Valencia, though certain as to his departure and numbers, gave me no information respecting the precise route he had adopted. But, Sir, even after the Marshal's arrival at Tortosa, he had different roads before him, and had he pursued any other than the one he did, ample time would have remained for me to embark every thing we had on shore. It was not only this time which I should have gained, had Marshal Suchet adopted any other line of operation, which induced me to take the extreme probability of such an event into consideration, advantages far superior to preserving a few pieces of heavy ordnance must have ensued, and two of the Duke of Wellington's objects have been realised. Tarragona, might, indeed, have been saved for the moment; but Marshal Suchet must have lost his communication with Valencia; that province, with the French troops in it, must have fallen into our hands, and the French General would necessarily have been compelled to abandon the Lower Ebro. I trust that, for such advantages, it was not an unmilitary measure to run some risk; of this, at least, I am certain, that it was neither against the spirit nor the letter of my instructions, and yet, Sir, my conduct must be proved so, before I can be condemned on this Charge. But independent of the effect which must have been produced as to the siege itself, let us next see what the consequences of the premature embarkation would have been in other respects.

I have stated, and the Duke of Wellington's instructions warrant this statement, that the attack on Tarragona had a double object, one of which was to occasion such a diversion in the rear of the enemy, as to induce him to abandon the strong entrenched position on the Xucar, and by a diminution of his force, to open the Kingdom of Valencia to the second and third Spanish armies. To force him to do so, then, became not only within the spirit, but I may say, the letter of my instructions, and became with me, a positive and prescribed duty.

It appears, Sir, that Marshal Suchet, knowing the importance of the positions he occupied, clung to them to the

last. That he did not quit Valencia till the 7th, and his troops did not reach Tortosa till the 10th. Now, Sir, if I had commenced the embarkation on the 7th, or even on the 8th or 9th, what would probably have been the conduct of Marshal Suchet? I need not say, probably, the measures he did adopt, when he perceived the embarkation resolved on, leave us no doubt upon that subject. I may, therefore, boldly affirm, that he would instantly have retraced his steps; and, I can no less confidently affirm, that he would, to say the least, have again established himself at Mogente and St. Philippe; nay, Sir, that he might have done so before the Duque del Parque had moved from Castalla, which was not till the 11th of June.

But, Sir, this would not, probably, have been the only misfortune. The Duque del Parque would have been suddenly exposed to the whole weight of the enemy's force. If he defended the position of Castalla, he would, inevitably, have been defeated; and, I much doubt, if he could have maintained himself in the position of Alicant, and prevented the total dispersion of his army.

Much of this, Sir, is no matter of supposition or calculation; for, upon the first intelligence of the return of Marshal Suchet, the Duque del Parque did abandon the positions he had occupied on the Xucar, retiring on Castalla; he was unable to resist the attacks of the small corps left under General Harispe, with the view only of keeping him in check. What, then, could he have done against Marshal Suchet's whole force? I well knew the state of the equipments of these Spanish armies; I well knew they could make no advance, for some time at least, after I quitted Castalla; I knew, that, even had the French General left half the force he did in their front, that the total want of provisions and carriage, would much retard their profiting by the weakness of the enemy; and, I know now, that, although the first movements in their front were made on the 2d of June, it was not till the 11th, that the Spanish General had it in his power to advance, and then only by the very great exertions and assistance of the British Consul-General, Mr. Tupper; who did, indeed, take upon himself a degree of personal responsibility and risk, highly creditable, and which few men would have incurred.

It surely must be unnecessary to point out to this Court, under all these circumstances, how decidedly important it was, to draw Marshal Suchet's army to the greatest possible distance from the Spanish corps; and, could I ever en-

certain a reasonable hope, that he would have proceeded one step further, when, by any operation of mine, it was declared, that the siege of Tarragona was raised; and, consequently, that all intention of future operations in Catalonia was abandoned?

To have calculated upon so glaring an error, on the part of Marshal Suchet, would have shewn the greatest ignorance of his character, and the greatest contempt of his abilities; I really, Sir, think it unnecessary to press this point further, it must be self-evident to the Court, that, had Marshal Suchet returned to the Xucar before the Spanish armies advanced on the 11th, that that position would never have been abandoned by the French armies at all; that the further the Marshal could be drawn from the Xucar, the greater was the probability of the Allied army returning in time to support the Duque del Parque, whilst the more harassing the march became to the armies of the enemy; and besides all these, the longer Marshal Suchet was detained in Catalonia, the less chance was there of his having either the inclination or the power to retire from it, seeing the advanced position which the Grand Army, under the personal command of his Excellency the Commander of the Forces, was daily acquiring in his flank.

The rapidity with which the Marshal evacuated the position of St. Philippe, and crossed the Ebro, when he heard of the Duke of Wellington's successes, is a full confirmation of this point.

A precipitate abandonment of the siege might have produced no less unfortunate consequences in the eastern extremity of the province. The Court no doubt will recollect that I had requested the co-operation of Lord Exmouth to make a diversion in our favour, by an attack upon the Bay of Rosas, and from the liberal offer of his services, I entertained no doubt whatever that he would comply with my request, if not prevented by other objects requiring his immediate attention. Although, Sir, my letter of the 2d, with this request, was delayed by Admiral Hallowell till the 4th, I had the hourly expectation of witnessing the effects of this diversion; I found, too, that a wide field was open to Lord Exmouth, for every disposable soldier was marching towards Tarragona; would it then, Sir, have been wise, would it have been a military measure, to have withdrawn from Catalonia, whilst the moveable columns of the enemy were still so near Rosas, that a landing even might have been disputed, or whilst the enemy were still so close that he

might have returned and overpowered any force which Lord Exmouth should be able to disembark? Having engaged his Lordship in this expedition, I felt myself bound in honor, as well as in duty, to expose him to no hazard which could be avoided; and I no less found it prudent, and I think, it was a military consideration to await the event, and to profit by the consequence, which I conceived must infallibly have resulted from this operation. The premature raising the siege must then have produced the same effect on the plans of General De Caen, as on those of Marshal Suchet; he became master of his movements, and finding that the Anglo Sicilian Army was preparing to quit the province, he would have been at liberty to attack with his whole force the marine corps from the fleet which I had engaged in this co-operation. There is nothing merely speculative in this, it would have been inevitable. Had, in consequence of my measures, Lord Exmouth's force been crippled, then indeed would the clamour have been formidable, and the more so, that my conscience would have told me it was just.

In one of my public dispatches, I have said, that the expectation of reinforcements had, amongst other reasons, induced me to persevere in the siege.

In conjunction with so many other grounds, this expectation certainly had some weight, and had this reinforcement arrived, the result might have been widely different.

This reinforcement, which Lord William Bentinck promised me, in his letter of the 9th of May, should sail from Sicily in 10 days, consisted of the 44th regiment, the 6th Battalion of the King's German Legion, each nearly one thousand strong, and some considerable reinforcements for the Italian Levy, and Neapolitan troops. Upon the whole I hourly looked for an augmentation of my force of nearly 3000 Infantry, besides a regiment of Cavalry, which his Lordship, in another letter, had given me reason to expect, but of which the promise was not certain.

His Lordship had good grounds, I allow, for changing his intentions in this respect; but as I did not know till his arrival, that he had done so; every hour that passed, brought with it to me a severe disappointment. Three thousand men, Sir, at that time were invaluable, and trusting to Lord William Bentinck's assurance, I had a right to calculate on their arrival. I had determined on an action; nay, Sir, I was ready to seek it with either of the enemy's columns, even with the force I actually had with me, and so consi-

derable an augmentation, although it would not have put me on a par with the united columns of the enemy, would have given me a decided superiority over either, and would have enabled me to endeavour to prevent their junction. I think, Sir, it would have enabled me to do so effectually, unless Marshal Suchet, taking a circuit of several days' march beyond the hills, which bound the plain of Tarragona, had decided on great sacrifices to accomplish it, and if he did so, he lost his communication with Valencia, and the advantages to the Allied arms, which I have just pointed out, were the certain and undoubted consequences.

After an address of this length, Mr. President, I am aware, that a prolongation of it is an abuse of the indulgence of the Court; I must, however, request its permission very briefly to re-state the points I have endeavoured to establish.

I have, in the first place, denied, that any evidence, written or verbal, exists to prove that I ever considered the capture of Tarragona as impracticable, till the hour I gave the orders to raise the siege. I have endeavoured to prove this fact, by the continued operations we were carrying on, by the disposition for attacking the out-works on the night of the 11th, and the arrangements made for the reception of the enemy on the 12th.

I have in the next place attempted to prove, that a perseverance in the siege was my positive and prescribed duty, according to the spirit of my instructions, and that a departure from that line would, in all probability, nay, I may say to a certainty, have occasioned the most fatal consequences to the Allied armies on the eastern coast of Spain, inasmuch as it would have enabled Marshal Suchet to re-occupy the entrenched position on the Xucar, and, probably, to crush the Duque del Parque before there was a possibility that I could come to his assistance. I have next, Sir, shewn, what the probable consequences might have been to any division of marines and seamen, which Lord Exmouth might have landed near the Bay of Rosas; and, lastly, I have endeavoured to prove, that the siege of Tarragona, and not merely a feint upon it, was in the contemplation of the Commander-in-Chief.

I do not pretend to say, that in the line of conduct I prescribed to myself, no risk was incurred; I knew, when I decided on continuing the siege after the 8th, that I did run a very considerable risk; and what military operation, may I ask, is free from it? Every battle which is fought is

a risk; the whole expedition itself was a risk. No one will surely assert, that in war, nothing is to be hazarded; on the contrary, the first quality of a Commander appears to be, to risk with judgment, and he does this best, when he takes care that the nature of the risk is inferior to the importance of the object. I may apply this axiom to the present case; I risked a few pieces of iron cannon, and some stores---for what? for the contingent benefit that I might, by this risk, possibly succeed in the capture of the place, or insure the success of two of the objects of the Duke of Wellington; but, at all events, on the certainty of drawing the French armies to me, and occasioning them a long and harassing march, from which they did, accordingly, most materially suffer, and of ensuring a certain time to the co-operating Spanish armies for the execution of their part of the general plan, which, after all, was the most essential of the whole.

I did incur this risk, whether with judgment or not, will rest with this Honorable Court to decide; but, at least, I can affirm, that it was done in the best exercise of my abilities, and with that due deliberation which the importance of the proceeding required. I was not blind to the consequences which would probably arise to myself, in the first instance, but if I had permitted so weak a consideration to seduce me from what my judgment told me was for the advantage of my King and Country, I should richly have deserved the most severe sentence this Honourable Court could pronounce against me.

Such was the view I took of the case, and the line of conduct which it appeared to me right to adopt; it was founded in my humble opinion, and with a view less to the object itself, than to the general plan of the Duke of Wellington's operations, upon sound professional principles; and I contend, therefore, that my conduct was no way unmilitary, and so far from being in opposition to the spirit of my instructions, that it was in strict unison with the letter itself.

I now come to the 2d Charge. The first perusal of this Charge, I must own, shocked, as much as it surprised me.

The accusations in the 1st Charge, excited no astonishment; it was framed for public purposes, and where public operations are said to have been misconducted, where a country's expectations have been disappointed, or its credulity imposed upon; guilt is best established, and innocence best vindicated, by direct accusations leading to a full consideration of the operation in question.

Even the aspersions levelled at my military reputation in the 3d Charge, were viewed without surprise; they were traced at once to a source that banished astonishment, while it relieved me from anxiety, and were seen without anger, and read without emotion.

But it was not easy to reconcile to my mind the first feelings awakened by the perusal of the Charge before you.

In the execution of the plan of operations entrusted to my care, instances might possibly have occurred where my judgment might have erred in spite of the rectitude of my intentions; other transactions might be misrepresented, and other motives misinterpreted, but disobedience of orders, at least, I fancied could not be attributed to my charge.

Alarm was even mingled, at first, with my astonishment, for, though hit was a point which the grossest misstatements in other matters had never ventured for a moment to call in question, yet could I not conceive that so serious an imputation would be urged against me, without some appearance of probability, or some ground of justice.

The first idea that occurred to me was, that some important passage in my instructions had escaped me, on which this Charge of little less than wilful disobedience was founded.

In vain did my memory instantly retrace every paragraph of my orders in succession, to convince me that nothing had been forgotten. A reference to them, and an attentive perusal of every line they contain, could alone satisfy my feelings or my anxiety on this occasion. Mr. President, they are satisfied. I have found nothing in my instructions that I did not always find there, and while I do most respectfully, but most firmly deny this Charge, I appeal at once to these instructions (the only express written orders that ever reached me) to defend me from the accusation it conveys.

The policy or the impolicy of the operations at the Coll de Ballaguer is not the subject of enquiry, although, in that shape, I should have had no difficulty in meeting the question; and so little, indeed, am I inclined to evade it in this form, or in any other, that the reasons which influenced my conduct on that occasion, shall certainly be introduced into my Defence, and find a place among the details to which it will give birth.

The Charge accuses me "of neglect of duty, and disobedience of the express written orders of Field Marshal the Marquis of Wellington, by not immediately re-embarking the whole of the forces under my command, after

I had determined to raise, and had actually raised the siege of Tarragona; and returning to Valencia, in order to assist the Spanish armies in the province, in securing the possessions they might have acquired there." Surely, even admitting that I did not immediately re-embark the troops (which, however, I engage to prove I did do, the instant it could be done with advantage to the publick service) there is nothing, in the whole body of my instructions, that can be construed into so imperative a command, as this Charge assumes. There is nothing, in any part of them, that marks the line of conduct I am to pursue with the same decisive language that stamps this pretended deviation from it.

If there is, why has it not been produced?

There is no written order directing the immediate re-embarkation of the troops, after I shall have raised the siege of Tarragona—not only it is not written—I contend, Sir, it is not even implied. If the Duke of Wellington's instructions have inadequately conveyed his Grace's wishes on this occasion—a circumstance, there can be no reason to suppose, still I am guiltless of this infraction of them, attributed to my Charge, for there can be no express disobedience committed, where there is no express obedience enjoined.

Before this Charge can be proved against me, the order must be recorded, or, at least, the line of conduct to be observed, must be too distinctly marked, to admit of misconstruction; it must be too plain to permit a doubt, either the latitude of discretion must be expressly disallowed, or it must be tacitly admitted; and, in the latter case, which I respectfully conceive, from the nature of my instructions, and of the enterprize in which I was engaged, to have been my situation, an officer may err in the exercise of his judgment, but while that judgment remains unfettered by strict and positive orders, neither disobedience, nor neglect of duty, in that point, can justly be laid to his charge.

I propose, Sir, to rest my Defence to this accusation on three grounds. The first, that my instructions contain no such express written orders, as the Charge asserts. And here, Sir, permit me to say, that were I to confine myself to this simple denial of the accusation alleged against me, it appears to me, that my Defence would be legally complete; and that, as such, the candour of the Court must receive my justification. I am called upon, strictly speak-

ing, to prove nothing, but that I did not disobey my written orders, and my written orders bear me free themselves. This Defence, after being fairly established, might, therefore, be considered final; but, Sir, it would ill-accord with my own feelings, or with the respect due to this Honourable Court, to build my justification either on the boldness or the weakness of the Charge before you. It would be at best considered an adventitious protection, and the inaccuracy I have pointed out, would afford me little more than a dishonourable safety.

I shall, therefore, laying aside every legal view of the question, upon which, after all, the Court itself will decide, propose to myself this second ground of Defence, that as soon as I resolved upon raising the siege, I did give orders for the re-embarkation; and thirdly, and collaterally, I shall attempt to prove, that by remaining on the coast, under the particular circumstances of the enemy's situation and mine, I did co-operate in the most effectual manner I then could, to the furtherance of the general plan of his Excellency the Commander-in-Chief, and that, by so doing, I did not only comply with the letter, but likewise with the spirit of my instructions.

In reference to the first ground of Defence which I have assumed, namely, that my instructions contain no such written orders, as the Charge asserts, I beg leave to read the 7th Paragraph to the Court, in which the operations in question are first adverted to, and which is as follows:

“ The second object (namely, the capture of Tarragona) will be a question of time and means. If Suchet, notwithstanding the junction of the troops of the first army, with those under Sir John Murray, should be so strong in Catalonia, as to oblige that General to raise the siege, and to embark without accomplishing his object, the first object will at least have been gained without difficulty; and the return of Sir John Murray's corps into the Kingdom of Valencia, will secure it.” Here, Sir, the capture of Tarragona is said to be a question of time, wherever a question is admitted, a doubt is necessarily implied; and to matters that are doubtful, precise limits can never be ascribed.

It is said, moreover, to be a question of means likewise. His Grace the Duke of Wellington, was in full possession of the means of the Allied army, the question could, therefore, only arise out of the application of them; and this application was necessarily dependent upon local circum-

stances which his Grace was well aware, no orders, however positive, could controul. The discretion arises, therefore, out of the necessity, and to suppose that his Grace could admit the necessity, and refuse the latitude which that necessity demanded, is to suppose a contradiction equally unworthy of his Grace's character, and of the clear and distinct manner in which his orders are uniformly conveyed.

But the Paragraph itself, when attentively perused, is the best defence against such construction, for it proves that his Grace evidently foresaw the possibility of the event which occurred, namely, that Marshal Suchet might assemble a force superior to the Allied army, and compel me to raise the siege of Tarragona. His Excellency foresaw, further, that he might force me to re-embark; but *that* I conceive to be a distinct operation; and, I conceive likewise, that the armies might have been so balanced, that the one measure might have been necessary, and the other might not; nay, Sir, independent of an equality of force, other circumstances might have rendered it of the utmost national importance, that the Allied army should have remained even after the siege of Tarragona was raised, and that much should have been hazarded for that purpose.

Let us suppose, for instance, that a favourable opportunity had presented itself, for striking a decisive blow against the army of General De Caen, which should have left General Copons master of the field, even after the departure of the Allies; surely it could never be in the Duke of Wellington's contemplation, to interdict the striking such a blow, if favourable circumstances presented for its execution!

Let us suppose again, that instead of halting upon the Xucar, and at St. Philippe, the Duque del Parque had been in a situation after the 11th of June (the period his headquarters were established at this latter place) to push his first successes, and penetrate to the gates of Valencia; and this, Sir, is something more than a supposition, for it was decidedly in his Grace the Duke of Wellington's contemplation, would it not have been highly advisable, nay, peremptorily necessary, if the contending armies were found, in any degree, balanced in the field, to have remained in Catalonia, to favour, as much as possible, this operation, and to prevent Marshal Suchet from interfering with its progress?

Assuredly it would, and assuredly such was his Grace's

own idea upon this occasion, for in another part of his instructions, which will be found contained in those before you, where he speaks of the return of the Allied army, and adverts to the territory which would probably be acquired by the Duque del Parque, during its absence—he says, “and the return of the Allied army will secure it.”

But security, Sir, could only follow upon the possession of it; and the absence of the Allied army, by withdrawing the enemy, and detaining him when withdrawn, was as necessary to effectuate the one, as its return could be to accomplish the other.

Or, Sir, to put the case still stronger, let us suppose that nothing had occurred to impede the Duke of Wellington's own operations, at the commencement of the campaign, that neither the bridges nor the weather, as his Lordship had informed me, had compelled him to delay his movements beyond the period he originally intended. Then, Sir, the glorious battle of Vittoria (glorious alike to him who led, and to those who conquered under his orders) would have been fought a fortnight earlier than it was; and the receipt of the intelligence, at the very period in question, would not only have rendered it advisable, but would have imposed it, as a most positive duty, on the Commanding officer of the Allied army, to remain in the province of Catalonia, as, by that position, he barred the only passage by which Marshal Suchet could return to his native country.

These, Sir, are very possible causes; and any one of them, and many others, might have occurred to render a discretionary power in the Commanding General necessary. And is it possible for a moment to suppose, that the Duke of Wellington (whose discernment who shall call in question?) that the Duke of Wellington, I say, did not foresee such and similar circumstances, and that at so long a period before the execution of his plan should take place, and at a distance of nearly a thousand miles from the scene of action, His Grace should have contemplated the binding the Commanding General of the expedition, in a manner that was to preclude him from profiting of any new occurrence, or situation of affairs that events might give birth to, and which it was absolutely impossible to foresee?

Why, Sir, the very uncertainty of the elements, to say nothing of the position of the enemy, bade defiance to such written orders as I am accused of disobeying: for this Charge admits of no latitude, and to fix the moment of

embarkation of a large army, upon an open beach, and on a stormy coast, is to make me answerable for events over which the weakness of humanity holds no controul, and is to make me responsible for measures which I could not influence; this would be equally unjust in a physical and moral point of view. But no such thing, Sir, was intended for a moment; neither the discernment nor the justice of the Duke of Wellington are to be clouded for an instant with such suspicions, and accordingly we find that his Grace has expressly made the operations two fold. First, the raising the siege; second, embarking the army; and his Excellency simply observes, that the return of Sir John Murray's corps to Valencia will secure that portion of the country to the Spaniards, which the absence of Marshal Suchet might have enabled them to occupy. But, Sir, not a word is said as to the time of my return, and, indeed, my return itself is only intimated as a measure of which his Grace foresees the probability, and which will be followed in his Grace's opinion by certain consequences. That intimation, however, I acknowledge to be so clear, that with the anxiety I have ever felt to carry even the wishes of his Excellency into effect, I should not, without very strong reasons indeed, have engaged in any new or distant operation. But as long as I should keep Marshal Suchet on the left bank of the Ebro, as long as I should prevent him from carrying the great body of his disposable force against the Spanish armies in Valencia, so long should I have acted within the bounds of the necessary discretion left me, and no less within the spirit of my orders, whilst such conduct would have militated against no written instructions whatever.

The 15th paragraph, in which the return of the army is next mentioned, puts this question out of all doubt; we find the same words as to the re-embarkation of the army, and the raising the siege, as in the former paragraph; but here we find also this further confirmation, that a position is pointed out for the Allied army *when, at all events*, it shall return.

The apparent and only construction which I can put on these words, and the following part of the order, is, that when imperious circumstances shall have obliged me both to raise the siege, and to embark the army, and that when I shall see the *necessity* or propriety of returning to Valencia, that then I shall disembark as far to the northward as I can; and that, for the purpose of keeping open my com-

munications with the sea, the position of the Allied army should be *immediately* on the right of the Spanish armies; and here, Sir, I cannot but think that the Court will find the solution of a doubt as to this Charge, which is obviously founded in a misconception. It is most clear that the Judge Advocate has misconstrued the instructions in this respect, that he has evidently framed his Charge upon the undue application of the word *immediately*, which has no reference to time, but only to position, and which is so obvious, that I think it unnecessary to take up the time of the Court with a lengthened confutation of the arguments adduced upon this point against me.

I will now, therefore, beg to refer the Court to the 22d paragraph of my instructions, and to ask whether a discretionary power is not there also expressly admitted? When the enemy, it is there stated, shall have been forced across the Ebro, by the maritime operations in the rear of his left, or by those just described on his right, it will rest with Sir John Murray to determine, in the first instance, the line to be pursued, in a view to the local situation of affairs in respect to the ulterior objects of the operations. Whether to establish the Spanish authority in the Kingdom of Valencia, by obtaining possession of Murviedro, Peniscola and any other fortified posts there may be within that Kingdom, or to attack Tortosa or Tarragona, supposing that that place should not have fallen by the maritime operations first proposed.

This paragraph, Sir, does most distinctly point out, that the great object the Duke of Wellington had in view, was to force Marshal Suchet to cross the Ebro. He had been compelled to this measure. Until the expedition actually did embark under Lord William Bentinck's command, he *was* on the left bank of the Ebro, and as long as he remained there, the paragraph just read gives a discretionary power to the Commanding General of the Allied armies to carry on his operations in Valencia, or in Catalonia, even if Tarragona should not have fallen by the maritime attack. This provisional clause of the instructions expressly, and in pointed terms, conveys the discretionary power to act in the situation in which the army stood. Tarragona had not fallen—Marshal Suchet had been compelled, with the great body of his troops, to quit the right bank of the Ebro. The enemy, indeed, had forced me to raise the siege; but his Grace leaves to my option to re-embark the army, and return to Valencia or not. And this paragraph I do most

humbly conceive to be a clear illustration, and confirmation, of the construction I have just put on the 7th and the 15th paragraphs before mentioned. Wisely or unwisely I might have acted ; but whilst Marshal Suchet was prevented from carrying his army against the operating force in Valencia, I cannot be accused of disobeying any written express order. On the contrary I affirm, that I was exercising a discretionary power expressly given, and acting in full conformity with the great feature of my instructions.

Now, Sir, in as far as I know, there exists not another order of any kind connected with the plan of the Campaign, in which the return of the Allied army is, in the most distant degree, hinted at. Upon the subject of the expedition I received no other orders whatsoever, and I do most confidently hope, that in these instructions before the Court; not only that no such order is expressed as the Charge would lead us to suppose, but that it is not even implied.

I have said thus much, Sir, to disprove the bearing and the validity of the Charge, and *there*, as I before observed, I think the Charge might fairly be allowed to rest. It is, however, my last wish to screen my conduct from enquiry, under the safe, but adventitious, means here offered me ; and I am ready and solicitous to make known to this Honourable Court, and to the world, every motive that influenced my conduct on this occasion, and to enter into any explanation that can satisfy my judges and the public.

When the voice of personal animosity is still, a voice to which I never have replied ; when the recollection of particular unkindness shall have passed away, a recollection which I have already strove to banish ; when prejudice and passion are at rest, and the clamour of honest, but misguided feeling, shall be heard no more, I humbly, but confidently, hope, that this Defence will be found to contain principles of action becoming both my station and my character, and equally consistent with the honour, safety, and reputation of the army committed to my care.

I come now, Sir, to the second head of Defence against this Charge. I have already stated it to be, that as soon as I resolved to raise the siege, I did give orders for the commencement of the re-embarkation.

In my reply to the first Charge, I have attempted, and I hope successfully, to prove, that it was not till 9 o'clock on the night of the 11th of June, that I came to this determination. To prove this Charge against me, then, it is

necessary, not only to establish an infraction of the Duke of Wellington's orders, but it is necessary to prove, that after my decision was taken, time was uselessly wasted before the embarkation was commenced, and that the whole army being embarked, (for it surely cannot be supposed that I should leave a part of it in Catalonia) I did not immediately proceed to Valencia, to carry, as the Charge states, the express written orders of his Grace the Duke of Wellington into execution.

To prove, then, that no time was lost, I conceive no further evidence necessary, than that of Lieut. Gen. Sir William Clinton, who has, in this instance, rendered me some service, by informing this Honourable Court, that he came to my quarters at half past nine on the night of the 11th, where he found the orders already issued for raising the siege, and that all the officers of my Staff were absent. The Lieut. General states that I was alone, and that I was obliged to send a Staff officer, attached to his division, to give the orders that the signal of attack should not be made. This evidence, when it is considered from whence it comes, must, I should hope, be regarded as conclusive ; but I propose to call some Staff officers to prove the anxiety with which I sought the attendance of those to whom it was necessary to communicate my intentions. It has, indeed, appeared in evidence, that several of these officers did not arrive at my quarters as soon as I could have wished. They could not be found, a circumstance to be regretted, indeed, but attaching no blame to me ; and as I know these officers were employed on important duties, I beg to be understood, that I mean to convey no censure upon them. This, Sir, is not the place, even if it should at all be necessary and possible, to ascertain the exact time when these officers reached my quarters ; all that I have to establish is, that they were sent for, and that I communicated to them my intentions. The evidence of these officers themselves has sufficiently, I hope, satisfied the Court as to this latter point.

If further proof was required, the testimony of Colonel Williamson leaves nothing to desire. He has told this Honourable Court, that between the time of his receiving his orders and noon of the next day, 26 pieces of heavy ordnance were embarked, with a great proportion of stores, and particularly specifies all the powder and other valuable articles.

However peremptory, however decisive the Judge Advo-

cate may construe my orders to be, in other points, I am sure he will not urge, that one word is said or implied, as to the place where the embarkation should be effected. In this respect, at least, a discretionary power was left me, and singular would it have been if such were not the case. In the exercise of this discretionary power, then, I ordered three divisions of infantry to embark at Tarragona, the advance at Salou, and the cavalry and field train to march to the Coll de Ballaguer. It is unnecessary to detain the Court with my reasons for this arrangement. Suffice it to say, that in my opinion it was the most expeditious and the safest mode by which I could insure the great object I had in view; namely, the complete embarkation of the army; having received no account that the enemy had actually passed Perillo.

In the night, however, of the 12th, I received, by express, a letter from Colonel Prevost, delivered to me by Admiral Hallowell, informing me that a division of 3000 infantry, with a proportion of cavalry, had entered the Pass which leads by Bandillos; and that he expected his communication with Tarragona would be cut off in the morning. Having received this intelligence, I decided immediately to go to the Coll de Ballaguer; but previous to my departure, I requested Admiral Hallowell to send there a division of infantry, as I then foresaw, what actually occurred, that the presence of infantry would be necessary to cover the embarkation of the cavalry. On my arrival, I found that some skirmishing had taken place, and that the enemy was in the Pass, and in considerable force. On the evening of the 13th Admiral Hallowell arrived, and the infantry he brought with him was disembarked during the night. On the morning of the 14th, the enemy appeared in some force, and occupied the gorge of the defile from whence in the evening, as Admiral Hallowell has stated, and as General Mc Kenzie has proved, he was forced to retire. During the course of this day, (the 14th) as Admiral Hallowell has further stated, the embarkation of the cavalry continued, and up to this time, at least, no imputation of delay can be attached to me.

Late, however, on the evening of the 14th, the complexion of affairs was much altered. I received the intelligence that the column of General De Caen's army, which had, on the 12th, advanced to Arbos, had suddenly retired to the Llobregat; that General Copons, (again at Reus,) had re-occupied all the posts between that river and Tar-

ragona, and that no reinforcements had been thrown into that place.

Here then, Sir, I found myself only opposed to Marshal Suchet, with a force that certainly warranted the hazard of an action, and more particularly, I should have been warranted in hazarding it, had I succeeded in cutting off, or destroying that column of his army, which was stationed at Bandillos, and lay extremely exposed. It was, Sir, with this view, and with the view of resuming the offensive, when I found the contending armies in any degree balanced, that I again ordered that part of the cavalry to be disembarked, which had been put on board, and certainly, Sir, I had every reasonable hope of acquiring that superiority in the field, which would have enabled me to resume the siege of Tarragona, and would have, probably, induced Marshal Suchet to quit the Lower Ebro, one of the Duke of Wellington's objects in the campaign; whilst, at the same time, by preventing him from returning to Valencia, I did more effectually, and more certainly, contribute to the assistance of the Duque del Parque, than by any other measure I could possibly have adopted. This, Sir, is the third, and collateral point, on which I rest my justification. I say, Sir, more certainly, and that can best be proved by computation. Previous, however, to entering upon this subject, I beg, Mr. President and Gentlemen, it may be distinctly recollected, that up to this date, and to avoid repetitions, I may say, up to the 17th, my army was constantly in presence of the enemy, which prevented the possibility of embarkation; it continued, however, during that time, to keep both armies of the enemy employed, and suffered no loss, that was not anticipated, or that interfered in the smallest degree with its efficient equipment for the field.

To return then to the third and collateral point of Defence.

In less than three days, the artillery horses being on shore, even supposing the most favourable weather, the operation of embarking, and the removal of the stores, could not have been accomplished; with a fleet of such magnitude, it would be unreasonable to count upon less than five days as a passage to Alicant, and to that port the army must have gone. To disembark so large an army, to re-equip it, to make arrangements for provisioning it, and particularly General Whittingham's division; in short, Sir, to put it in a state to march to meet an enemy, could not have required less than four days, and to join the Duque del

Parque, who was at St. Philippe, on the Xucar, would have required three days. Taking then, Sir, in every point the most limited periods, I could not have reached the Spanish army in the position it occupied in less than 15 days; whereas, Marshal Suchet, as he had shewn by his advance, and as he did prove by his return, had only a march of six or seven days, which brought him to St. Philippe, at least one week before me.

We have seen that Marshal Suchet actually took this course, the moment he ascertained the intention of embarking the army, and it is, therefore, a fair conclusion to draw, that he would have taken the same course, and executed his movement in the same time, had he ascertained the point sooner, and every day was to the Duque del Parque, and consequently, to one of the important objects of the Duke of Wellington's instructions, invaluable.

But, Sir, there was another circumstance to notice, which effectually prevented all possibility of embarking, even on the 16th, and obliged me to prepare for a general action. This was the sudden and most rapid return of the column from the Llobregat, of whose movements, although the road was occupied by General Copons' army, I heard nothing till it was entering Tarragona. In a very few hours afterwards, it was reported to have arrived at Cambrills, and there, the Staff Officers I sent for information, actually fell in with it, about two or three o'clock, on the evening of the 16th, the whole of the Catalanian army having retired to the North. The only conclusion I could draw from this rapid return of the enemy was, that a combined attack was meditated upon the Allies. I prepared for it; but in the night, this column again retired, for what reason I know not, and Marshal Suchet retired the same night to the Ebro likewise.

My duty, however, evidently was to prepare to receive the enemy, and it would have shewn little prudence or foresight, to expose myself to be attacked with divided forces, which would have been the case, had the embarkation commenced on the 16th. On the 17th Lord William Bentinck arrived. Disembarrassed now of the enemy on both flanks, his Lordship found the orders given for the embarkation. After due deliberation, he directed it to be continued; and the arrival of Lord Exmouth, with 12 or 14 sail of the line, and all the boats of a fleet of this magnitude, added to the means we before possessed, enabled his Lordship, about 12 o'clock at night, on the 19th, to complete the operation. Such is the relation of the circumstances that occurred, to pre-

rent the immediate embarkation of the cavalry and artillery, which operation would have completed the embarkation of the forces under my command. It commenced, I may say, instantly after my decision was taken to raise the siege. The most expeditious means were used; the advance of the enemy interrupted the operation; and more infantry being required on shore, it was necessarily landed. The retreat of one of the columns of the enemy, to a distance of upwards of sixty miles, left the armies, in some measure, balanced in the field, whilst the hope of cutting off the column at Bandillos, holding out a prospect of a decided superiority, and offering a fair opportunity of engaging Marshal Suchet with divided forces, a part of the cavalry which had been embarked was re-landed for that purpose. The return of General De Caen's force, and the retreat in the night of the column from Bandillos, frustrated these hopes. But, when the French army declined battle, when Marshal Suchet withdrew to the Ebro, and General De Caen to Tarragona, the embarkation was immediately ordered.

To conclude, I do most respectfully deny this Charge, both in its principle and its application.

In its principle, because I had in my possession no express written orders that directed my return to Valencia, in a language so decisive as to deprive me of all discretionary power in the period of re-embarkation. And, in its application, because admitting such orders to have existed with a view to securing the acquisitions of the Duque del Parque, I contend, that, in the relative position of the hostile armies, these acquisitions were, in no degree, endangered by my absence. On the contrary, that the line of conduct I pursued, was the best calculated to promote their extension and their safety. And, that my secondary operations (if secondary they can be called) were, in no respect, contrary to the letter, while they were in direct unison with the spirit of my instructions.

But, Sir, to call them secondary operations, is to lose sight of the first principle that produced them, and of the ultimate object they had in view.

Their first principle, Sir, was the army's safety, and their ultimate object, its entire re-embarkation; that re-embarkation which I am accused of unnecessarily delaying, which was decided on the moment it was determined to raise the siege of Tarragona, and which every effort was exerted to carry into effect. Imperious circumstances interrupted the operation. It was only when these ceased, that

t could be completed with safety ; but the principle and the end remained the same.

In point of fact, I might assert, the siege of Tarragona could never be said to be virtually raised till the whole army was embarked, for it was the embarkation of the army that constituted the raising of the siege, and if the succeeding operations growing out of circumstances, which I could not controul, but originating in this object, and keeping this object always in view, have been satisfactorily accounted for to the Court, then am I accused of not doing, what every hour after I determined to raise the siege, was consumed in the anxious attempt to accomplish.

It is one thing, to linger unnecessarily in the execution of public duty, and it is another, wisely to extend the period of active operation for the accomplishment of an important object ; while we pursue a course consistent with its completion, and within the sphere of rational and duly-regulated discretion, a discretion which exists within the breast of every officer, and the limits of every command, unless expressly disallowed by his orders, which, in the instructions of His Grace the Duke of Wellington now before you, I beg leave to express my firm, but humble conviction, *it certainly is not.*

I come now, Sir, to the 3d Charge. In the words of this Charge at present under the consideration of the Court, it is distinctly stated, that Admiral Hallowell engaged to effect what I would not attempt, viz. the embarkation of the cannon and stores.

This offer of the Admiral's, when taken without due consideration, appears most specious, and could not fail to produce a certain sensation at home, as well as in the fleet, and, I regret to say, on some portion of the army under my command.

I say, Sir, I regret that such has been the effect on the minds of some officers ; but while I lament it, I can neither feel anger nor surprise. Anxious to rival their fellow soldiers in arms, though few expected, yet many hoped that the besieged fortress would have fallen into our hands, and that future successes would follow so prosperous a commencement of the Campaign. Disappointment, and severe disappointment too, must naturally have been felt, when these sanguine expectations vanished, and when they found that in the abandonment of their hopes, they were to lose a part of their equipments, no wonder can be excited if this feeling was increased.

It might, and probably would have been, with many a feeling of regret, unattended with an inclination to censure or to blame; an inclination which an ignorance of the causes producing the retreat of the army, ought naturally to have prevented. But, Sir, is it a matter of astonishment that the expression of dissatisfaction should be heard in the circles of the least experienced among us, when the officer at the head of the Naval Branch of the expedition, loudly proclaims through the ranks that there exists no cause for this disappointment, that Marshal Suchet had no army to contend with us, that no enemy, or at least an insignificant one only, was approaching, and that he himself would engage to carry off the guns and stores.

I stood, Sir, in a very different situation to all others; before I could give credit to such offers, I was bound to examine to what they amounted, and before I could admit the Admiral's responsibility in this case, I necessarily had to consider in how far it would be admitted by others, and exonerate me from that load of condemnation, which I should have well deserved, had I listened to such councils, and grasped this phantom of security.

If, Sir, these offers, not of assisting only, but of effecting the re-embarkation of the cannon, and the consequent responsibility in case of failure, had not been so much insisted upon, and as in this Charge so gravely stated, and even now persevered in, by the Admiral in his opening, I could not have brought myself to believe, that ideas so extravagant ever could have been entertained by an officer of Admiral Hallowell's experience, and extent of service.

It cannot be necessary for me to enquire whether the Admiral possessed the means of performing his promise with the men of two line of battle ships and transports, and under circumstances in which the rapid approach of the enemy could have precluded me from affording any material assistance on the part of the troops, more particularly as it would have been impossible to have commenced the operation until night, and as the guns must, in their way to the beach pass within 4 or 500 yards of the fortress under fire, and along a road in part enfiladed, but I am ready to suppose every difficulty surmounted, and to admit that Admiral Hallowell could have conveyed them to the beach and embarked them.

The nature and effect of the offer, as stated by the Admiral, in his address to the Court, is no way altered by this concession on my part, for he expressly says, that

if I would have permitted the army to stay until the 13th, the object might with ease be accomplished. It is still, however, contingent on the continuance of the army on shore, and consequently the adoption of this proposal would have involved me in the very hazard I felt myself bound by my instructions to avoid.

I knew, Sir, as well as the Admiral, that if I could venture, under the circumstances I have stated to the Court, to have maintained my ground, before the place a sufficient period, that the guns might have been saved; but all my intelligence led, as the Court will see, to the possibility of the enemy's being in contact with me on the 13th, the day that was to have determined the success of this experiment, and consequently that the Admiral's proposal was neither more nor less than that I would permit the army to remain at the hazard of its safety, and for the consideration of the cannon, lose sight of the great object which I was bound to keep steadily in view.

To attempt to prove that in the event of misfortune Admiral Hallowell would not have been the responsible person, would be a very useless trespass on the time and patience of this Court. Had that officer failed in any part of his own immediate duties, he would have been called upon to answer for such failure; but would his Majesty's Ministers, and the Country, have acquitted me of blame, upon this weak excuse, that an Admiral offered to execute the duties intrusted to me, and that I had delegated to another, that situation which had been assigned to me? To me, Sir, it was assigned to conduct the Army, to me its safety was intrusted; from me would it again be demanded when lost, and with merited ridicule and contempt would my apology have been received, that I had listened to the advice of another, of a person, comparatively speaking, only an indifferent spectator, whose own honour was in no way compromised, whose own responsibility was in no way affected, and whose own safety, which I, of course, make synonymous only with that of those under his command, was in no way endangered or concerned.

But, Sir, as an excuse for Admiral Hallowell, I will plead, as his letter of the 14th entitles me to do, his ignorance of our real situation. He there gives us, in plain terms, to understand, that he knows of no more than 5000 men approaching us. He might under such circumstances have considered a particular line of conduct advisable, but had he known the real situation of our affairs, had he given credit to the informa-

tion I communicated to him, had he been aware that more than twenty thousand men were pressing forward to attack us, instead of 5000, it is but fair then to suppose that his advice would have been of a very different nature. The proposal was made by the Admiral, I am convinced, without due reflection. It unfortunately inflamed the minds of a portion of the Army, and of the Public, against me; but the Court will see to what it amounts, and will judge whether with my view of our situation I could with safety have attended to his suggestions.

Before I enter into that part of my Defence in which this view will be fully laid before the Court, and with it the relative strength and positions of the Contending Armies, I should wish to make a few observations on some particular expressions in the Charge (incidental as it were) for the fact cannot be denied that the abandoning the Cannon, &c. at all is my offence, and that a few arrangements, or a little preparation more or less, would never have occasioned to you, Gentlemen, the labour and task which has been imposed upon you, or to me, would have given rise to the vexation to which I have been now for more than eighteen months exposed. It appears, however, by this Charge, that no preparation or arrangement was made prior to the embarkation. It may not be considered an immaterial question, if I ask my Prosecutor what preparation or arrangement on my part was necessary? I know of none whatever on the part of the Army, nor can I conjecture what it would have been necessary to prepare or arrange on the part of the Fleet, but if there, a neglect is to be found, I am not the person to be blamed, for Admiral Hallowell knew my opinion from the 8th or 9th, how very probable the re-embarkation was, and he knew on the 11th at night, that it was then determined on. As far as the army was concerned, the only thing required was the order to march, and as for the Fleet, the same vessels that brought the troops, were there to receive them, they were victualled, they were watered, they were allotted to regiments; all that was to be done, therefore, was for the Admiral to give the orders for the boats to repair to the Beach, and for me to order the Troops to meet them; it was for my Prosecutor to point out what preparations were neglected, and what necessary arrangements were omitted; he has not done so, for there was not the slightest foundation for the insinuation or charge.

But, Sir, although it is not always the fair criterion of judgment, let us enquire what has been the result of ad-

hering to my own determinations. The infantry, the field-artillery, and such staff-horses as it was intended to embark on the 12th, near Tarragona, were, with all that appertained to them, to use the Admiral's own expression, got on board. I know of nothing that was forgot, and nothing that was left; such things alone excepted, as the necessity of the case forced us to abandon, and which was the natural consequence of the line of conduct I had prescribed to myself. The divisions marched to the beach in perfect regularity; not a man remained behind, and the whole of the regimental baggage was taken off with the corps; what, then, was I to prepare and arrange? Nothing—and, fortunate was it, that nothing was required; for, Sir, I will acknowledge, that had great preparations been necessary, unless they were indispensably essential to the safety and future efficiency of the army, I would not have made them; I would not publicly have proclaimed to the enemy my intention of desisting from the siege, whilst my object was to draw him from Valencia, and preparations for embarkation could not have failed to give him that information.

Perhaps, Sir, it will be a more convenient arrangement to omit at present any observations I may find it expedient to offer on the accusation of "hastily" re-embarking, and "precipitately" and "unnecessarily" abandoning the cannon. The Members will be more competent to judge in how far such terms are applicable to my conduct, when some preparatory and necessary information is laid before them. I shall therefore only at present, in requesting a suspension of the judgment of the Court as to these points, make this single observation, that the precipitancy, or, as I conceive, it would be more properly termed, the expedition with which the siege was raised, was no other than the natural consequence of a deliberate resolution to persevere to the last extremity; a resolution which actually brought with it the extreme probability of the loss of a portion of the artillery and stores; a loss which, on mature reflection, I decided to hazard in the exercise of the discretion left me, and with the view of complying, to the utmost in my power, with the spirit of my instructions, by rendering the diversion in favor of the Duque del Parque as effectual as possible. In these hasty, precipitate, and unnecessary proceedings, as they are called, upon Admiral Hallowell's authority, there is no surprise, no unforeseen event occasions them; every resolution I took, was duly weighed, and, if I have erred, it is an error in judgment I have

committed. The error does not arise from the adoption of hasty councils inadequately considered—of want of judgment I may be convicted—of want of foresight I must stand acquitted.

Violent assertions, Sir, are, fortunately, no evidence, and consoling to me indeed is the reflection. What could my feelings otherwise be, when I see my measures stigmatized as degrading? They are said to be so, because I was not compelled to them by the immediate approach of a superior enemy, or by any other sufficient cause; to blot out this deep stain attempted to be thrown upon my military reputation, it would seem, then, that I have only to prove the superior forces with which I should have had to contend, and the fatal consequences which would have followed such a contest.

If these are proved, the accusation falls to the ground, unless, indeed, the Court wish to stigmatize as degrading, every retreat before superior forces, which has taken place in this, or in any former war; and, surely, such never can enter into the view of any military Court.

Will officers, who have contemplated the campaigns of the Duke of Wellington, stamp as degrading, the retreat of that officer from the confines of Portugal, to the lines of Torres Vedras? And yet, what justifies that retreat, but the pressure of a superior body of the enemy? Has the retreat of the Duke of Wellington from Burgos, or that which he was compelled to make subsequent to the battle of Tallavera, been considered as degrading? No, Sir, and yet, on both these it is a known fact, that much of the equipment was lost, and that the army severely suffered. But the necessity of the case justified the adoption of the measure, and the statement of the General, that his army was not equal to the superior numbers of the enemy, at once silenced all clamour and complaint. His Grace in all these operations, was, indeed, so fortunate, as to act alone; he had no naval coadjutor in his army to fan the flame of disappointment, or, by his misstatements, to raise the public clamour against him.

Let us take another instance, more, perhaps, in point. I mean the retreat of Lord William Bentinck from this same Tarragona, and from the same enemy. Has his retreat been proclaimed to have degraded the British character, and in what does its justification rest? It rests, Sir, in no other possible foundation, than this—that, in the opinion of the General, the army of the enemy was so superior to that of

the Allies, that prudence forbade the hazard of an action. In this last case, indeed, much more is granted (though certainly not too much) to the word of the Commander, than in any of the other instances I have quoted, or, than it will be necessary for me to ask of the indulgence of the Court. The numbers of the hostile armies, when, in August, the siege of Tarragona was raised, is, undoubtedly, in favour of the Allies, as the official states clearly prove. The superiority, therefore, of the enemy, on which the justification rests, arises solely in the composition of the armies, and even in that point, the word of the Commander is deemed sufficient; and most just is it, that it should be so.

And here, Sir, let me ask the Court, what crimes have I committed, that I am denied that attention to my statement, which is given in all other cases; and why an attempt is made to stigmatize as degrading, a retreat when ordered by me, when it is pardoned, nay, perhaps applauded, in others; and that, too, in the simple assertion of its necessity, by the Commander? But, I need not apply for a reason. The reason of this injustice is evident, and I have only to cast my eyes to the place where Rear Admiral Hallowell, my accuser, sits, to discover the source from whence it springs. A task, then, Sir, is imposed upon me, which never, to my knowledge, has been expected from others in my situation. I am called upon by evidence, to prove the force of the enemy, a point of extreme difficulty in all cases, but, where the French are concerned, most particularly so, from the extreme care with which they conceal their actual numbers, the assiduity with which they augment or diminish them, as best suits their purpose, and, above all, by the excessive activity in detecting spies, and the rigour with which they punish even on suspicion.

Under these difficulties, I am called upon to prove the force of the enemy, and that, too, in a country, where I was scarcely eight days, where no system of intelligence could be arranged, and, consequently, where I was, as Captain Stoddart has been, liable to be deceived by any report, possibly circulated by the enemy himself.

I mention these difficulties, not from any fear that I shall fail in establishing a sufficient Case to the satisfaction of the Court, but to bespeak its indulgence, if the evidence does not in every respect appear before it, in that strict legal form in which I should have been anxious to present it. But, as experienced officers, you all know, that unless

official returns of the enemy's army are actually intercepted, or a confidential spy is established in his departments, accurate and precise statements cannot be given. Such intelligence we had not, and such statements I cannot offer, but I shall now proceed to lay before the Court the best evidence that it was in my power to procure of the French armies with which it was my lot to contend.

In evidence upon this point, I propose to call, in the first instance, the Quarter-Master-General of the army, who appears to have conducted the department of intelligence, prior to my arrival; and I shall lay before the Court a statement made out by that officer, of the numbers of the army of Arragon, collected, in some instances, from official documents, but in all, from the most trustworthy information we could obtain. To this statement is added, an additional memorandum, which subsequent intelligence, but much prior to the date which it bears, rendered necessary.

By this return, which gives even the numbers of the regiments, we find that General Donkin, as the sixth legere was subsequently known to be with the army, makes their force to amount to 22,720 infantry and cavalry; but the battalions are there taken only at an average of 600 men, it, therefore, (partly from finding that this average was too low, and partly from the knowledge, that by the arrival of recruits after the battle of Castalla, their losses were repaired) was judged more correct to take the numbers at 700 per battalion, which is, I believe, as low as the estimate can in justice be made. Hence, in the additional memorandum, 3300 infantry, on that account, and 1400 men on account of the 11th regiment, are added, which makes the numbers of that arm 24,800 men. With respect to the cavalry, I must observe, that we had never heard of the 12th hussars as forming a part of the army of Arragon, until I received from the Duke of Wellington an intercepted return of a part of Marshal Suchet's army, in which it is named, that corps, therefore, never was taken into the account.

I now know, that the 9th Hussars has been drafted into the 12th, from which there is reason to believe, that the latter was, at least, as strong as the former corps; its strength is, therefore, taken at 500. These united numbers, independent of artillery, which I shall take into no statement, makes the army of Arragon, in the Kingdom of Valencia alone, to consist of 27,900 men.

The next evidence I propose calling before the Court will

be, Lieut. Gen. Whittingham, from whom I derived much important information, and from whose intelligence and activity, I received every assistance. In respect to procuring intelligence, he was particularly useful, and organized a system in Valencia, which produced the most beneficial consequences. I shall submit to the Court, a statement of the Arragon army, made out from the sources of private information, which General Whittingham possessed; and which were totally distinct from those channels of intelligence to which General Donkin had means of access, and, I know, General Donkin never saw this statement till his own was in my hands. From this state, the force of the enemy appears much greater, amounting to 28,485 infantry, and 2775 cavalry; in all, 31,260 men. The increase may be supposed to arise from the want of means which General Donkin experienced, to ascertain the enemy's force in the Kingdom of Arragon, which is, consequently, not included in his statement. To one remark in this return, I must draw the attention of the Court, namely, that the general total of the army of Suchet, agrees very nearly with the strength of his army, when he entered Valencia, which, certainly, may be considered as a corroborative proof of the accuracy of General Whittingham's return.

The last state in which I shall found my calculations, and to which there can be no doubt that implicit credit is due, is a return signed by General St. Cyr, Chief of Marshal Suchet's Staff, found in the port-folio of King Joseph, after the battle of Vittoria, and sent by the Duke of Wellington to me. In laying this statement before the Court, it is necessary to make a few observations. In the first place, then, I request the Court to observe, this return is a partial one; that it is a return only of men present, and that no notice whatever is taken, of some very considerable disposable corps, or of garrisons. I have, therefore, judged it expedient to bring into the form of return likewise, the whole of the enemy's force, taking General St. Cyr's return as the basis, and inserting only such corps as are evidently omitted.

In this mode of collecting the enemy's force, independent of the sick of those reported by General St. Cyr, the Court will perceive how nearly it agrees with General Whittingham's statement, and that it amounts to 32,676 men.

Surely, Sir, I shall not be accused of exaggerating the enemy's disposable force, when I generally stated it to be

about 24,000 men. I allowed (having these documents before me) something for exaggeration, and I did not take into account the garrisons in Arragon. The disposable force, I did, and, as a proof of my right so to do, I have only to mention, that the division of General Paris (whose Headquarters were at Saragossa, and who has been so often mentioned of late, by the Duke of Wellington as a division of the Arragon army,) had joined Marshal Suchet before the battle of Castalla, and formed the division of reserve.

The Court is aware, no doubt, that the French army on the eastern coast of Spain, was divided into two parts; the army of Arragon, of which I have now been attempting to establish the strength, and the army of Catalonia, which will now become the object of my enquiry.

The former of these was under the immediate command of Marshal Suchet, the other under that of General De Caen, but it appears that the Marshal had a general controul over that army likewise.

To establish the strength of this last army, the first evidence I shall call, will be Major General Donkin, who will prove its strength, when General Maitland appeared before Tarragona, to have been about 23,000 men, that is, 10,000 men for the garrisons, and 13,000 disposable for the field. We knew of no detachments subsequently made from that army; and in the field we know for certain, that it lost almost nothing.

This statement of General Donkin's may, perhaps, be confirmed by Admiral Hallowell, who was present at the council of war, in which it was decided, the disposable force of the enemy being so superior to the army of the Allies, that no landing should take place, and the Admiral has expressed to me his approbation of that decision.

The Court must be quite aware, that the best means within my reach of forming any opinion of the enemy's force in Catalonia, was the information I got from the Spanish authorities; (I had, indeed, no other,) and that I shall now proceed to lay it before the Court. This information is contained in three Memoirs, on the state of the war in Catalonia, to which I have already adverted. From the first of these, written by Colonel Cabanes, the chief of the Catalonian Staff, in December, 1812, he states, the united armies of Marshal Suchet and General De Caen, (not including the garrisons of Barcelona, Tarragona, Figueras, Rosas, Hostabrich, and Olot,) to be about 45,000 men; but as no distinction

is made, I cannot draw from this Memoir, what part of the force may be assigned to the Catalonian division.

It is, however, of importance, that this amount should be noticed and recollected. To which, if the garrison above stated to be not included, are subjoined, we shall find the general total to arrive to 55,000 men, and to correspond with the entire strength of the troops under Marshal Suchet's command, as confirmed by all the different sources of information within our reach. With the next Memoir, dated the 14th March, that is, ten weeks before the expedition landed, there is no such difficulty; Colonel Cabanes, in this Memoir, treats only of Catalonia, and distinctly observes, after enumerating the different positions and cantonments of the French Army in detail, that the whole form a total of 23,611 Infantry, and 1194 Cavalry, in all 24,805, of which, on account of the numerous objects to be attended to, he observes, they cannot collect more than 13,000 men as disposable. A still later return of the enemy's force, sent me by General Copons, dated at Vick, on the 7th May, three weeks prior to the disembarkation, states, the enemy's force in Catalonia to be 21,950 Infantry, and 1050 Cavalry, in all 22,970 men, which is a diminution of 1825 men from the former return, arising from this circumstance, that General Copons has not calculated several of the garrisons which Colonel Cabanes had done. Besalu, Bañoles, Moncada, Molins del Rey, and other Villages, are omitted, making 1200 men, nor are Palamos, nor Mattaro mentioned, whose garrisons are stated to be 300 each. These numbers being added, the two returns will be found to agree with the exception of 25 men, which trifling difference surely merits not the least attention; but it does merit attention, that both these returns amply confirm the calculation made of the enemy's Catalonian army, the preceding August, to which General Donkin will speak. Upon this subject it is unnecessary to add more; but lest these returns should be doubted, I may be allowed simply to observe, that whether they are right, or whether they are wrong, so great was Marshal Suchet's united force, that after he had thrown strong garrisons into Murviedro, Tortosa, Mequinenza, Lerida, &c. after he was separated from the division of General Paris, opposed to the Duke of Wellington, and after deducting 10,000 men for the garrisons of Catalonia, he still, on the 14th August, had a force sufficiently formidable to compel the Allied Army, then 33,000 men, to abandon its position before Tarragona, although it was in

direct communication with the Catalonian Spanish army, to observe which, it is natural to conclude, that some part of the enemy's force would be necessarily detached.

Under all these circumstances, Mr. President, you will not accuse me of assuming Marshal Suchet's effective strength too favourable to my own cause, in fixing it in all future calculations at 52,000 men. Some of these states, which I have had the honor of noticing, making it amount to 56,000, none bringing it lower than 52,000, I am content to abide by the lowest calculation.

It now, in course, follows to enquire, of this aggregate number of 52,000, what portion was disposable or applicable to the operations in the field? There will be no difficulty in ascertaining the requisite garrisons in Catalonia, and it must be observed, not to enable the different fortresses to resist a long and regular siege, but to ensure their safety against a sudden attack, and to keep the immediate neighbourhood in subjection. This, by a general agreement, appears in Catalonia, to have been taken at 10,000, which will leave 13,000 for field operations, and the Court will find this to be the numbers, as stated by General Copons and Colonel Cabanes. In the Memoir of this last officer of the 14th March, it is said, "The infinity of objects "which this, (the enemy's army,) has to attend to, is the "reason why the French cannot bring into the field more "than 13,000 men," and General Copons, in the Memorandum of the 7th May, informs us, "that besides the garrisons of Puycedà, Gerona, and Barcelona, there are moveable columns of the enemy." "Of the 4000 men at "Puycedà," (says the General,) "3000 are constantly "in motion, of the 7000 men at Gerona, more than 5000 "are constantly in motion likewise, and of the 7500 at "Barcelona, about 4000 march out and manœuvre in the "country."

Here then, Sir, on the authority of the Captain-General of the province, the Commander-in-Chief of the army, I produce you a proof, that the moveable column of the enemy, in Catalonia, was more than 12,000, and under the signature of the Chief of the Staff, that it does not exceed 13,000.

As, Sir, I do not know what points in Arragon were occupied by the army under the command of Marshal Suchet, and what by other divisions of French troops, I cannot minutely state, the stationary force of that province; but in the return of the 20th March, already before

the Court, General Whittingham states the forces belonging to Marshal Suchet's command, in this province, to be 6280 Infantry, and 605 Cavalry. In these numbers is included, the division of General Paris, which, as I said before, was the division of Reserve, at the Battle of Castalla; I will, therefore, content myself with taking this division only as disposable; it was called 5000 men at St. Philippe; but as I had reason to believe that some recruits for other corps might be included, I will, to avoid all exaggeration, take it only at 3500.

It cannot be computed at less, including its cavalry, more particularly when it is remembered, that it was actively employed, and acting as a separate corps.

In the Kingdom of Valencia, I can speak to the garrisons with more certainty. At Morella, Denia, and Requena, there were about 350. At Murviedro, never more than 400. In Valencia, about the same number, and usually Invalids and Convalescents; and at Peniscola, about 200, in all 1350 men, deducting this number, (added to the numbers necessary for the garrisons in Arragon, 3385,) will make 4735; subtracting this again from 30,000, which is the mean between the highest and lowest numbers already stated to the Court, and Marshal Suchet will have from that army alone, a disposable force of upwards of 25,000 men.

That this number is not exaggerated, the calculations I had the honour of submitting to the Court, and the force the Marshal absolutely produced on the 14th August, are strong and convincing proofs. And the result of all these calculations is, that the disposable French army, on the Eastern coast of Spain, cannot, in any possible manner, be brought lower than 37,200 men. And this, independent of their artillery, and all their corps of sappers, miners, &c.

Now, Sir, it is quite evident, that while the army of Alicant was acting with that Fort as its basis, and at the extremity of the French line, it had to contend only with a part of this force, but when it landed at Tarragona, it was placed, as it were, in the centre of the enemy's line.

The right flank was exposed to the Catalonian French division; the left to the army under Marshal Suchet in Valencia; the front, to the troops in the Province of Arragon; to say nothing of the fortress of Tarragona itself.

Every one of these corps was within a very short distance of it, and its own movement, in any direction whatever, was rendered almost impracticable, not only by the want of equip-

ments, but by fortresses, in the hands of the enemy on every side but one, and there we find the sea, with a difficult and dangerous beach.

Perhaps, Sir, in strict justice, I might be entitled to call on my Prosecutor, to prove how this disposable force of the enemy was employed, and what deductions must be made from it.

I shew the existence of the disposable force of the enemy, I shew that we were within reach of it all; and I might contend, that my secret intelligence warranted the assertion, that the whole, or nearly the whole, was assembled around us. With Admiral Hallowell it would naturally rest to shew, that such a statement is erroneous, and to prove, by the positions of different corps, that they could not be where my intelligence had placed them.

Had Admiral Hallowell taken that line, I then must naturally have produced the grounds for my assertions, and, with the Court, it would have rested to decide to which statement credit was due. But, Sir, even had Admiral Hallowell taken that course, had he even succeeded in convincing the Court of the accuracy of his statement, and consequently that mine was erroneous, still, if no neglect on my part to procure intelligence be proved; and if it appears, likewise, that the best information I could obtain, justified my belief, and authorized the line of conduct I pursued, still, I say, under these circumstances, I might be pronounced to have been deceived; but that guilt could not be attached to me, which is imputed in the strong language of the Charge.

But, Sir, trusting that I shall not stand in need of this indulgence, and unwilling to avail myself of the state of ignorance as to the force and dispositions of the enemy, in which my accuser was, I shall now lay before the Court all the intelligence which I have, at this time, in my power to do on these important subjects. I say at this time, because, during the period I was before Tarragona, much more reached me, but never contemplating that I should be called upon to expose it before any Tribunal whatever, I destroyed it, as it appeared to become useless.

These papers which I have preserved, and that more by accident than by design, are of a late date, and will, I trust, be found satisfactory.

I shall, Sir, in the first place, attempt to substantiate the accuracy of the statements I have sent to the Duke of Wellington, respecting the column advancing from Barcelona, and the position of that corps.

I have stated this column to amount to 8000 men. Admiral Hallowell is not satisfied with reporting it to be only 5000, but broadly asserts, without any qualification or reserve, that there is no ground for believing that this division, which, under the temporary command of General Maurice Matthieu, came from Barcelona, ever consisted of more.

Much, Sir, of my information, as to the preparations the enemy was making, was verbal, as the Court are well aware a proportion of such intelligence must be, where I was in the habits of constant communication with those who gave it to me. An earlier investigation, and that in the country where the event happened, would have enabled me to have proved by the persons themselves, that I did receive such intelligence, and the sources from which it was procured, so as to enable the Court to judge what ground I had for the belief upon which I acted. It must always be recollected, that what I am called upon to shew, is not the actual number, which it is quite impossible I could expect to prove by legal evidence; but the information and intelligence I received, which is legal evidence to the purpose of the present enquiry, viz. that of my grounds of belief as to the force and position of the enemy.

But although I lose much of the evidence I could have brought, I have ample means of satisfying the Court, that I had intelligence which fully justified my determination. I had several conversations on this subject with General Copons, with Colonel Cabanes, and other officers of the Spanish Staff. On one occasion with Colonel Manso, who brought a letter himself to me, with the intelligence that the force of the enemy would probably amount to 12,000 men; and knowing, as I did then, and as the Court does now, their power to assemble so formidable a body, it is rather matter of surprize that they should have marched with 8000 only. Colonel Manso himself, on my pointing out to him this increase from other accounts, conceived it might be exaggerated; but as his reports will shew, never stated their numbers at less than 10,000 men.

Colonel Manso's reputation is too well known to require any observation from me; all that is required to say is, that he commanded the advanced posts towards Barcelona; that he undoubtedly procured the best intelligence, and that he had a regular correspondence with the interior of Barcelona itself.

The first document I shall lay before the Court, is a

letter from General Whittingham, enclosing a report from the Staff officer stationed at Villa Franca, dated 8th June, half-past 7, P. M. The report is as follows:—"The Governor of this town has communicated to me the reports which he received at one o'clock last night, from the late Governor of Gerona, now residing at Arens del Mar, dated 3 o'clock, P. M. 7th June.

"The enemy, in force from 4 to 5000 men, have put themselves in motion from Mansaret de la Silva, and direct their march through Hostabuch and San Celoni; and it is understood their object is to throw obstacles in the way of the siege of Tarragona."

Now, Sir, I beg the Court to observe, that this is the disposable force from Gerona alone, stated by General Copons to be more than 5000 men.

Those at Barcelona, and those at Puycedà, are not included, Barcelona is still in their front. They are marching to that place, and Puycedà lies in an opposite direction.

The letters and reports from Colonel Manso were sent to General Whittingham, who was authorized by me to open and translate them.

The next document I shall produce, is a letter from the former of those officers, and translated by the latter. It is a very important letter, and I shall, therefore, beg the permission of the Court to read it.

It is dated "*Vendrells*, 10th June, 1813.

"**RESPECTED GENERAL,**

"On my return here I found letters containing the information, that 7000 were to arrive yesterday at Barcelona, and that this evening 10,000, with 200 Cavalry, and 14 pieces of cannon, would begin their march from that town. This moment I received a report from within the town of Barcelona, stating, that at 5 P. M. of yesterday, they had not arrived at Barcelona; but that 10 guns, and 4 howitzers, were prepared, and ready to move, and they would have a force of 10,000 men.

"To-day I have received orders to go to Villa Franca with the battalion of Chasseurs of Catalonia, leaving in Arbos the battalion of Cardona. I am informed also, that General Copons has ordered the Governor of the Corregiments of Tarragona to destroy a bridge beyond Villa Franca. If this can be done before the enemy comes, and the defence is intrusted to me, with the battalion of Chasseurs, I will engage to detain the enemy, at least, one day.

"The French talk much of going to Tarragona, and this gives some motive to suspect they may have other ideas. I will take care to inform your Excellency of all their movements.

"(Signed) JOSEF. MANSO.

"Addressed, Lieut. Gen. Sir John Murray, Bart."

(Translated by General Whittingham)

Now, Sir, from this letter we learn, in the first place, that, by two different channels, Colonel Manso was informed that 7000 men were to arrive at Barcelona on the 9th, and that on the 10th they were to march from thence, increased to 10,000 men, with 200 cavalry, and accompanied by 14 pieces of artillery.

The march of between 4 and 5000 of these men was before reported from Arens del Mar, the remainder I conclude to have been a part of the disposable force usually stationed at Puycedà. But the intelligence is clear and distinct, and it is confirmed by a third letter in every point; at 5 o'clock in the evening of the 9th, these troops were not arrived at Barcelona, but 10 guns and 4 howitzers were prepared ready to move, and they will have, says the letter, a force of 10,000 men.

The concluding paragraph shews the Colonel was aware of other measures they might pursue, and which would have detained them, and delayed their appearance before the Allied army for several days. So far, Sir, for the enemy's preparations; as I before said I had many other reports which have been destroyed, I now have the honour to lay before the Court a report which I received from Colonel Manso after the enemy had actually marched. It is dated, Villa Franca, on the 11th at 7 o'clock, A. M.

A confirmation of this report will be found in the succeeding one from Mr. Guillot, an officer of General Whittingham's Staff, stationed in advance for the purpose of collecting information; it is dated half an hour later, and is as follows:—

"The enemy, in number from 7 to 8000 infantry, and 3 to 400 cavalry, with 6 pieces of cannon, are in Villareña, four hours distance from this; and their advanced guard is encamped on the other side of the Ordal."

The last document with which I shall trouble the Court, as to this division of the enemy, is another report from the same officer, dated half-past 9, P. M. on the 11th; in which he informs me, that the enemy, who were in Ordal,

entered Villa Franca at 4 o'clock that evening; and on the back of the report General Whittingham has written,

"The French marched last night at 12 o'clock from Villa Franca for Vendrells."

This last report will shew the Court, that the enemy actually had passed Villa Franca when the siege was raised, and Marshal Suchet's official dispatch, places General Maurice Matthieu at Arbos. This report was for some time lost, which occasioned some difficulty to me, when preparing my public dispatches. From all these reports, it appears to me, Sir, in spite of Admiral Hallowell's assertion, not only that there was reason to believe that the enemy's column in question was of 8000, but that it actually was so. And it is no less clear, that it had passed Villa Franca, and on the morning of the 12th of June, was at Arbos. I had even intelligence of an additional column of between 2 and 3000 men, being in the rear of this corps, which I beg the Court to observe, had so far advanced by forced marches.

To this report it is particularly necessary to draw the attention of the Court, because it will account for the breach of promise, of which I am accused by Lieutenant Colonel Williamson. This report reached me during the night, and after the promise was given. It is the first intelligence which I had received of the enemy's arrival at Villa Franca; and the night march reported on the back, by General Whittingham, was, in my conception, a clear and distinct proof of the determination of the enemy to get in contact with the Allied army, which I thought, circumstanced as we were, and situated as Marshal Suchet was, most prudent to avoid.

I have, in my preliminary observations, upon Admiral Hallowell's letter, observed, upon his having adopted the report of the peasant brought to him by Captain Stoddart; but as Admiral Hallowell has, in the course of the prosecution, produced Captain Stoddart as a witness, and also Captain Bowen; and, therefore, endeavours, even now, to prove that he was correct in his calculation of the enemy's force, I must beg permission of the Court, to recur to that evidence, as making part of the general subject of intelligence of the enemy. The Court have heard Captain Stoddart's account, and are, in the first place, to judge of his competency, with reference to a knowledge of the Catalan dialect, correctly to understand what the peasant said, compared with the positive proof, which Admiral Hallowell has

saved me the trouble of producing, by laying before the Court, Colonel Llauder's letter of the 14th: one of these things is certainly true, either that Captain Stoddart did not understand the peasant—that the peasant did not know what he was reporting—or what is more probable, that he was a French spy. He states two things: first the numbers, and then the fact, of the French being at Villa Franca at half after seven in the morning of the 13th, when he left that place. As to the first, it is well known, that persons not in the habit of calculating the numbers of military bodies, may easily be deceived on that point; and, that it would not impeach the veracity of a peasant making such a statement; but the second cannot be the subject of mistake. The statement, that the French were at Villa Franca at half after seven o'clock in the morning of the 13th, is proved to be a *deliberate falsehood*; and, the Admiral has totally forgotten, in his eagerness to corroborate the peasant as to number, that he has completely destroyed his credit, and shewn that the man must have been a French spy, sent to deceive us as to the real position of the French. Captain Bowen, gives nearly the same account, and that every thing was quiet; and Captain Stoddart expressly states, that the peasants who had fled, were returning to their houses, which is stated to prove, that the French were not advancing, and to fall in with Colonel Manso's conviction, that he did not think they would advance. Now, I think, the Court will see no difficulty in concluding, that the return of the peasants was owing to the knowledge of the fact, that the French, instead of advancing, had actually precipitately retreated; a fact, which there is little doubt, that Captains Stoddart and Bowen, if perfectly masters of the Catalan dialect, and able to communicate with the people, must have been able to ascertain.

Colonel Manso's name is then brought in with his sorrow for the siege being raised; I have no doubt he was very sorry for it, as was I, and every other person; and he is then made to say, that he did not think the French would advance. The intention of this evidence, is, I confess, beyond my comprehension, for he was continually sending and giving me intelligence of their rapid advance, and was aware that their object in leaving Barcelona, was to endeavour to interrupt the siege of Tarragona.

But, Colonel Manso's reports to me, will speak for themselves; and, if I were permitted to state subsequent con-

versations I have had with him, I could certainly add force to the conviction. The Court must feel, that there must be some mistake, from want of sufficient knowledge of the Spanish language, in Captains Bowen and Stoddart, and of the English by Colonel Manso. Having alluded to Colonel Llauder's letter, I will trouble the Court with one or two observations upon it. The first point proved by it, is, that he knew of the French having retired on the night of the 12th at ten o'clock; but, in stating this generally, it does not prove that they had not advanced further than Villa Franca. It is well known, that a part of them came as far as Arbos, of which I had intelligence.

Common reports, Sir, are hardly worthy observation or contradiction; we know how current and how false they are in all armies, the army of Alicant formed no exception to this rule. The diminished numbers of the enemy's column, spread with the utmost rapidity and expedition, and when that column retired as it did, in the night of the 12th, (in spite of Captains Stoddart and Bowen's intelligence to the contrary) the point was still more pressed, as the difficulty of proving the real strength appeared to increase. Nay, Sir, the retreat was construed into a proof of its weakness, as the operations in its rear (undertaken by Lord Exmouth) were naturally unknown; unfortunately for such calculations, this column returned, and with it the contradiction to the reports. The officer from General Copons, who brought me the account of this return, at once informed me it amounted to 8000 men.

The letter which General Copons' Aid de camp conveyed, puts the point out of all doubt. General Copons there tells me, "I can absolutely do nothing in these plains with an enemy superior in numbers, in infantry, and cavalry, and with 10 pieces of cannon, an arm in which I am entirely deficient." This letter will be laid before the Court. General Copons, before he wrote it, had been joined by the two regiments from the Coll de Ballaguer; his whole army was united—he had 300 cavalry—he was unfettered with any orders from me, as to the necessity of co-operation; and he tells me, the enemy is more numerous in both arms, with the express number of cannon reported as prepared at Barcelona, and that he can do nothing against an enemy so superior in numbers. Sir, although I knew he could not, my assertions might have been doubted; but where we have not only the fact under General Copons' hand, but actually proved by the event,

the most wilfully blind will not dare to dispute it. At all events, it is an undeniable proof of one of these two things, either that the enemy was fully of the strength which I have stated, or that the Spanish army of Catalonia was weaker than the numbers at which it was reported to me. General Copons expressly says, that he is inferior in numbers; so great is this inferiority, that it is not only that he cannot arrest their progress, he cannot even, although in their front, prevent the enemy from making forced marches through that country which General McKenzie has represented as so strong; and, accordingly, we find this column on the Llobregat, on the morning of the 14th, and at Cambrills about two o'clock on the 16th, a distance of about 64 miles.

As, Sir, in Admiral Hallowell's letter of the 14th June, on which this charge is expressly founded, all mention of the column approaching from Tortosa is avoided, I may be allowed to conclude, that no doubt is entertained of its strength, as stated by me, which I have always calculated at 12,500 men, and as such, stated it in my dispatch, which I read to Admiral Hallowell, before his letter of that date was sent off.

As he does not dispute my statement on this subject, when, on other points, nothing passes unnoticed; I may assume it as a fact, that he could not controvert it in this instance; and hence, consequently, it follows, that the great difference between us, is only concerning 5000 men—a difference which, probably, may be regarded as of no very great consequence, when the positions and the compositions of the armies, and the Duke of Wellington's orders are duly considered.

But, Sir, I wish to prove that this statement of Marshal Suchet's force, is not ideal; I wish to shew that I had such grounds to believe it, that I should have been culpable to have neglected; and as my information to this time remains uncontradicted, I must express my belief, that my information and calculation formed upon it, still remains correct.

When the expedition landed on the 3d of June, the garrison of Tortosa consisted of 400 men, and of that strength, General Copons represents it to have been on the 7th of May. But, Sir, it remained in this weak state for a very short time, and, on the 5th June, I learned from many sources, and at General Copons' head-quarters, from himself, or the head of his Staff, that on the 4th, one

thousand men had arrived there. During the next three days, a further reinforcement, variously stated at 2,500 and 2,800 men, was reported to me. A letter from the Alcalde of Perello, gave weight to this intelligence, in as far as it proved the belief of the immediate arrival of troops at Tortosa.

A confidential person from Tortosa, came to me on the 7th, who fully confirmed the arrival of at least 3500 men, up to that period, and this was further corroborated by Gen. Copons, who had given me nearly similar information.

The object of that person's visit to me, and the manner in which he was introduced, left no doubt, in my mind, of his veracity.

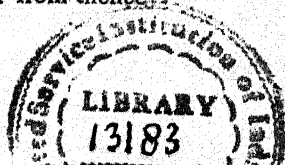
Having no confidential agent of my own in Tortosa, it was only by comparing the intelligence I received from many quarters, that I could arrive at the truth.

As early however as the 7th, it appears by a letter from Admiral Hallowell, dated the 9th at four o'clock in the morning, giving accounts from Tortosa of the 7th, that 2000 men arrived at Tortosa. "The Governor," he says "told him (the confidential person sent from Perello,) that 2000 men had arrived," and in a parenthesis, says the Admiral, "and in fact they are arrived."

I likewise knew that they were arrived, and I knew too that 1000 men more were arrived; but it is not probable that the Governor would inform a confidential agent of ours of the extent of his force, or of the preparations already made to attack us.

I knew further that the great proportion of these reinforcements was composed of the division under the command of General Pannatier, who arrived on the 4th or 5th from Segorbe, by the road of Vistavella, and the north of the province of Valencia. This line of march distant from that of Marshal Suchet, as well as the time of arrival, proves that it formed no part of the army under his immediate command, which reached Tortosa on the 10th by the Coast Road. In all these reinforcements there was nothing to induce me to abandon the siege. I never calculated that more than 3500 men had reached Tortosa before the 7th.

On the 8th, intelligence of more importance reached me. On the morning of that day, it has been already stated in my Defence on the first Charge, an accredited agent from one of my confidential correspondents arrived by sea from Valencia, furnished with the agreed private signal, and the information that Marshal Suchet had marched from thence on the 7th with 9000 men.



From the respectability of the person from whom this information came, and from the accuracy of the intelligence he had always sent, I could not, and did not, hesitate to give full credit on this occasion.

The means which I knew Marshal Suchet possessed of detaching this force from the Xucar, and the importance of the object he had in view, were strong corroborating proofs if any had been required.

The original note of information, I shall submit to the Court, and I make no doubt Admiral Hallowell will recollect the arrival of the boat from Valencia, and my shewing him the note on the day on which it reached me.

But lest these circumstances should have escaped his memory, I have provided a certificate from Mr. Tupper, the British Consul, that he paid for the boat which was hired for the express purpose of conveying the intelligence to me.

From this note I first confidently knew the views of the French General, and although it conveyed no intelligence as to his line of operations, it shewed me the force with which he was prepared to act in Catalonia.

As corroborating proofs that my Valencian correspondent did not exaggerate the account he sent me, I shall call Captain Sharpe of the Navy before the Court, who was stationed along the Eastern Coast, the substance of whose information will be, that between the 6th and 8th June, 9000 Infantry, and 1100 Cavalry had passed Murviedro; and that, besides these, Marshal Suchet on the night of the 8th, had left Castella de la Pleana with 2000 infantry and 400 Cavalry. Now, Sir, (allowing a great deal for exaggeration of the peasantry,) surely, when an agent of respectability reports that 9000 men had left Valencia alone; and when the universal report of the peasantry is that 12,500 had passed particular points of the road, I am authorized to take the lowest numbers, and to assume that the force which Marshal Suchet brought with him from Valencia, was 9000 men. If more evidence is required, Sir, I can shew by the numbers of the enemy which remained on the Xucar, the force that had been withdrawn from the positions on that river. Mr. Tupper, then with the Duque del Parque's army, in a letter of the 7th, informed me, that they had accounts of five regiments, that is, of 11 battalions, having crossed the river on their way to Valencia, and the chief of the Duque del Parque's army, in a letter of the 12th June, when they were in possession of the French positions, and at

Marshal Suchet's late quarters, tells me, that between 6 and 7000 men only had been left in their front. I might state, if this were not sufficient, the intelligence I received from various deserters, corroborating the strength of Marshal Suchet, and even the numbers of the corps under his orders, in every point.

I am aware that the reports of deserters are seldom, if ever, worthy of credit; and that in a Court of Justice where these deserters are not produced, such evidence must be wholly inadmissible.

There is, however, one situation in which the testimony is of real importance; and that is, when it is found to correspond, and to tally in all its principal points, with the intelligence collected from the best and most authentic sources, and with which it is impossible these individuals could have any the most distant communication; united with this, it acquires a value which, like the cypher, it loses when standing alone, and that value rises in like manner in a compound proportion.

Under this view of the subject, I shall beg the permission of the Court to lay on your table, two depositions of persons of this suspicious description. I am encouraged to do this with more freedom, because these depositions were not received by myself, but were taken and forwarded to me by persons, who cannot be suspected of favouring my statements.

The information was procured on the 16th of June, after the army was at the Coll de Ballaguer, subsequently to the siege being raised, and subsequently to the dispatch of Admiral Hallowell's letter of the 14th.

Now, Sir, from these depositions taken together, it appears that although not named (and here there is an evident error) that the corps commanded by General Musnier, General Lamarque, and General Pannatier, were in the field, and that the following corps composed the army:

1st Legere.....	2 Bns.
3d Legere.....	2 Bns.
5th Legere.....	3 Bns.
8th Ligne	2 Bns.
20th Do.	2 Bns.
114th Do.....	2 Bns.
117th Do.....	2 Bns.
121st Do.....	2 Bns.

and that besides those regiments expressly named, there were corps of which Antonio Cortolotti (named in both papers) did not remember the numbers. I am content, however,

to leave these out of the account, although I might add the 11th regiment, which I have very good reason to know was with the army.

Having obtained, therefore, from Admiral Hallowell, and General Adam, the officers by whom these reports were sent me, the names of the regiments which are allowed by these accounts to compose it, I have only to refer to General St. Cyr's official return, to obtain the exact strength of the corps, and to ascertain, as near as it can be necessary, the numbers of the army opposed to us. I am convinced, that on this point the Chief of the Staff will be allowed, by the Court, to be an evidence perfectly conclusive, and no way to be put in comparison with the testimony of the deserters in question, who, however well acquainted with the numbers of the regiments composing their respective divisions, are not likely to possess any accurate knowledge of the particular strength and establishment of each: without entering into a minute return of each corps, it has been seen that 700 men per battalion is not an exaggerated calculation.

There are 17 battalions reported to be with Marshal Suchet, which will, alone, make a force of 11,900 infantry. To this must be added the 800 men which the 114th regiment received from France, after St. Cyr's statement was made, (for it had not received it then,) and we have 12,700 infantry, without including the 11th regiment, which was one of those which came from Vistavella, and the other corps, of which Antonio Cortolotti, does not remember the numbers.

I do not, Mr. President, conceive this to be evidence; but I consider it a very strong confirmation of what I have already related, and rendered doubly unexceptionable from the medium through which it was conveyed to my hands, and it receives a further confirmation as to the number of battalions, by a report of the Alcalde of Perello, which I shall have the honour to lay before you. It is dated the 17th, only one day after these depositions were taken, and informs me, that Marshal Suchet had retired through that village to the Ebro, with eight regiments of infantry, the precise number these deserters have given us, exclusive of the 11th, under his orders.

The cavalry in Colonel Adam's report is stated not to exceed 1000. It cannot have been much less; for there are at once 500 cuirassiers, there are hussars; there are dragons, and there is one squadron of Westphalian cavalry.

It is not, surely, unreasonable to suppose that these three corps, when taken together, amounted to 500 men, and the more particularly, as there were detachments of the 4th and 9th hussars.

But let it be called a thousand cavalry only, which Marshal Suchet had with him, we shall still find that, from these statements, his army, independent of the 11th regiment, and independent of those corps, of which the numbers are not given, amounted to 13,900 men, cavalry and infantry alone. His train of artillery fully warrants this calculation of his numbers; he was reported to have 16 pieces, two or three of these 16 pounders, and others 12 pounders. And, Sir, it was reported to me at the time, that several of his field pieces were carried on mules, for the purpose of passing them through the roads in the mountains.

Under all these circumstances, I cannot think the Court will accuse me of exaggeration, in assuming this force as amounting to 12,500 or 13,000 men. With respect to the position of this force, that is, its distance from the Allied army, I shall have no difficulty in proving, that on the 11th, the main body was at Perello, that on that day, or the 12th, a strong corps was pushed into Valdellos, and that on the 13th, the British cavalry was engaged with the advance in the Plain of Tarragona, and within six or seven hours march of that fortress.

If these facts be proved, it follows, from all I have said, that on the 12th at noon, when I ordered the troops for embarkation, one column of the enemy of 8000 men at least, which could have been augmented to 13,000 men, was at Arbos, which is within 26 miles of Tarragona, and on the other flank we find Marshal Suchet, with his advance at Valdellos, the force of this column being about 13,000. With respect to this column, it is, however, to be taken into consideration, that the Marshal was at Perillo, on the 11th, and that is, Sir, his main body was within two long marches, and his advance on the night of the 12th, was only one march distant from Tarragona. I shall conclude this part of the subject, by begging to recal to the recollection of the Court, the observation of the Duke of Wellington, "I must, however, acknowledge," (says his Grace,) "that I have always found the French in the field fully equal to the highest calculation of their numbers, and greatly exceeding the general report."

Before, however, I dismiss this part of the subject altogether, I should wish to ask my Prosecutor, if it is in the

character of a French General to act with inadequate means, where more ample are within his reach? I would ask him, whether it is probable that Marshal Suchet, if he proposed only to act against me with a small force, should abandon his positions on the Xucar, and bring the troops from thence by the most fatiguing and harassing marches to Tortosa, whilst other corps were much nearer, and did not occupy such important points, or whether he conceives it possible, than an officer of Marshal Suchet's activity and reputation should leave a proportion of his army absolutely idle, when so much pressed on every side, and in danger of losing his communications with France, and of being separated from one half of his army?

Yet all these, I may say impossibilities, must have occurred, if the columns from Valencia did not amount to the numbers I have stated.

The Court will perceive this to be the case, when I mention, that by the Marshal's own account, and by all others, large bodies of infantry were marched from the right bank of the Xucar to Tortosa, that by withdrawing these troops he did not leave a sufficient corps to preserve his strongly entrenched position of St. Philippe and Mogente, which he abandoned without resistance, and that General Harispe, who remained in command during his absence, was perfectly prepared to abandon likewise the line of the Xucar, had the Duque del Parque made the slightest appearance of advancing.

On the other hand, Requena, which had always been preserved with so much care, fell into the hands of the Spanish General Miaris, whilst General Villacampa, who had always occupied a portion of the French army, advanced almost to the gates of Valencia, and drew provisions from its immediate vicinity, from the active and enterprising Guerilla Chief, the Frayle Nebot remained unopposed. He was, indeed, obliged to retire to the Puerta, when the French column, passing from Segorbe to Tortosa, burned his hospitals at Vistavella; but this column left not a man to contain him, and as soon as it was passed, he advanced, and reached the very shores of the Mediterranean, as reported by Captain Sharpe.

These are undoubted and notorious facts, and I may be permitted urgently to press the question to my Prosecutor, where Marshal Suchet's army was employed during this period, if it was not opposed to the Duque del Parque, to General Miaris, to the Marquis of Villacampa, to the

Fraysle Nebot, whilst scarcely a man remained in Valencia, where the utmost consternation reigned amongst the French authorities.

Where, I will ask, could they be? We must, ere this, have heard of the distant expedition where they were employed, for we know that the Allies had no other corps to which they could be opposed.

The answer, I think, is plain. Every disposable corps, nay, indeed, more than what may fairly have been calculated to be disposable, was with the Marshal himself, with that corps, which was to fight the battle, if the Allied army permitted itself to be brought to action; an action, which would have decided the campaign, and, probably, the war on the eastern coast of Spain, had the Allies been defeated, and from which, in the event of success, little or nothing could be comparatively expected. I speak in this way, because, to repulse an army, is not to destroy him, and because the repulse of Marshal Suchet could only have been attended by a temporary retreat, in which it was impossible for me to follow him.

Marshal Suchet's abilities and experience forbade these suppositions, and, more particularly, when he was meditating an attack on that very army, which, at Castalla, first checked the tide of success which had uniformly attended his arms, and before which, with a superior force, and in, I may say nearly, an impregnable position himself, he had, for two months afterwards, lain inactive.

Judge Advocate. It is three o'clock, the Court, therefore, cannot proceed any further to-day.

Adjourned to to-morrow morning, ten o'clock.

EIGHTH DAY.

Saturday, 28th January, 1815.

The Court met pursuant to Adjournment.

Judge Advocate. Sir John Murray, the Court is prepared to hear the remainder of your Defence.

Lieutenant-General Sir John Murray.

Sir, having now detailed the force and the positions of the enemy, in due course comes to be considered the strength, equipments, and situation, of the Allied army, and, perhaps, Sir, there is no point in this history of the subject, on which more misrepresentation has gone abroad.

Returns have been published, including corps which never were in Spain at all, and others, which had been sent back to Sicily; and the strength of those which were really present so increased, that the army under my command appeared little less numerous than that under the orders of the Duke of Wellington himself, whilst to heighten the picture, the numbers of the enemy were proportionally diminished.

The best contradiction to all these reports, is the official return from the Adjutant-General's Office; it is a document that requires no comment, and admits of no contradiction. With the other documents, I shall produce it as an undeniable proof of the accuracy of a short analysis, which I shall now have the honor of submitting to this Court.

From this state, then, it will appear that the Allied army landed 12,818 infantry, and 698 cavalry, making a force of 13,516, effective rank and file of both arms, of all descriptions, and composed of troops of various nations. The loss which we experienced before Tarragona, at the siege of Fort St. Phillippe, was so trifling, amounting only to 56 killed and wounded, that it merits no attention, but it authorizes me to take the numbers of the army at 13,500 men, including servants, batt men, hospital attendants, guards in the transports, and all that train of what may be called non-combatants, and which are, we know, so numerous, in the best organized armies in our service.

The composition of this army, however, promised still

less than its strength, and that part of it in which I could place reliance, and to which I had to look with confidence for exertion, bears but a small proportion to the general numbers.

In round numbers the infantry was composed as follows :—

3,910 British.

1,710 Germans, in whose ranks were men of all nations.

1,330 Two Italian regiments, composed of French prisoners and deserters,

980 Sicilians.

490 Calabrese.

8,420 Supplied by Great Britain.

4,380 Whittingham's Spanish infantry.

12,800 Total Infantry.

The cavalry stands thus :—

232 20th Light Dragoons.

276 Brunswick Hussars.

90 Foreign Troop.

698 Total Cavalry.

With this heterogeneous mass, the disembarkation took place on the 3d of June; no reinforcements of any sort arrived, and, consequently, the numbers of the army never could be increased.

I feel that in addressing myself to a Court of experienced Officers, the mere statement of these numbers, and the mode in which the army was composed, should render any observations on my part unnecessary. Had this army been wholly composed of British and German soldiers, I am sure, from its numbers, it will appear perfectly inadequate to enter the field with the enemy opposed to it. Had its numbers been doubled, and composed, as I have stated, it might still with many have been a subject of doubt, whether it could even then have been considered on a par with the French army, consisting, as I have explained, of 20,500 men, at least, exclusive of the garrison of Tarragona, which would at all times have been in its rear, and which must always have been watched by that superiority of force, which insured its confinement within the walls.

But, Sir, independent of what appears on the first inspection of this statement, other, and very important defects may be pointed out, which did much increase the inefficiency of the army for active and vigorous service, and, consequently, did go far to deprive the General who commanded it, of all confidence, where success could only be expected from well equipped, experienced, and steady troops.

No part, Sir, of this army, not even the British regiments, fully possessed all these requisite qualities—and, some part of the army, none of them.

The manner in which I have spoken of this army in my public dispatches, and in the General Orders, guard me from all suspicion of wishing to detract from its merits; and I am convinced, that I had as much confidence in its gallantry, as any officer whatever could have; but this is no reason why I should be blind to its defects, or that I should shut my ears to the complaints made to me by the officers who more immediately commanded its parts.

To many of the corps of which this army was composed, I am ready, and, on this public occasion, do, with pleasure, bear the most unqualified testimony of their good conduct and gallantry, whenever they had occasion to shew it; but, even of these, the necessary equipments would not have enabled me to profit in the field to that extent which would have been the case in any other situation.

To the conduct of some parts of this army, I can not speak in the same favourable terms; but, as I conceive the numbers, composition, and inexperience, to be sufficient, I shall seek no other excuse for the doubts I entertained of its ability to enter the lists with so superior an enemy.

The only other argument which I shall state as weighing with me, in coming to this conclusion, is the difficulty of provisioning the division of General Whittingham. An express written order from the Duke of Wellington strictly prohibited me; I could only obey, and often did I feel the inconvenience of this arrangement. In Catalonia, at this time, I foresaw, I may say, the impossibility of providing for it, as General Copons had refused to put this division on any other footing than that of his own army, which was frequently without the means of subsistence.

The equipments come next to be considered, and it is quite indisputable, that unless these are to a certain degree complete, no very efficient service can be expected from any army.

The army at Alicant, at the end of February, when I

assumed the command, was very deficient in every point. It was immoveable, and this arose, I conclude, from the frequent change of officers who held the command in hourly expectation of being superseded; from the low state of the military chest; and from the uncertainty in what manner the army would be employed. Previous, however, to the embarkation for Tarragona, the deficiencies were much remedied, though still they were far from being entirely supplied.

The Artillery, notwithstanding, was well equipped with horses and mules. The regiments were provided with the requisite carriage, and the only material deficiency, which would have been experienced in the event of extended operations was in the Commissariat. The want of tonnage, however, obliged me to leave almost all these equipments at Alicant, and the army landed at Tarragona, incomplete and inefficient in every part.

Of the Commissariat equipments, nothing was taken, as will appear by a letter from Mr. Daniel, the Deputy Commissary General, which I shall lay before the Court, without fear of censure, although Mr. Daniel expressly points out, that they were left by my order.

Unfortunately, Sir, I could neither build transports, nor enlarge the dimensions of those already with us; and not a spot, I believe, was left vacant, where an animal of any description could be placed.

With respect to the Artillery, we were, indeed, rather better appointed, but the Court will see how very deficient we were, when the returns are produced, proving that we left at Alicant, 638, horses and mules, bringing with us only 345, a number amounting scarcely to one third of our complement.

Such, indeed, was the deficiency, that we did not land a single tumbrill, and had we moved, when they of course must have been landed, we could only have attached one tumbrill to two guns, and that only by taking the horses allotted for the transport of ammunition from the depot, or reducing the number of horses allotted to the guns themselves, which, for our heaviest pieces, amounted to no more than six.

For the transport of spare ammunition for the soldiers, some mules had been procured, but many of the corps had none, and no regiment was complete; and for the transport of camp kettles, no better provision could be made.

As for waggons for the sick, the wounded, or the necessary appointments for the hospital, no such things existed; and yet, Sir, we all know how indispensably necessary these articles are, and more particularly when active and most active service too, would have been required of the troops. But, it is not only that all these deficiencies existed, but with the approach of the enemy, all hopes of supplying them vanished; we became hemmed in, on every side, for we had not, as in most other situations, an open country in our rear. Even, Sir, before we became seriously pressed, many of the animals disappeared, and considerable difficulty existed in procuring the most necessary supplies.

Amongst the many advantages which I derive from the composition of this Court, I cannot help feeling it a most fortunate circumstance, that the Members of it, from great experience, know the importance of these articles, in which we were so deficient.

It is, therefore, in a perfect confidence of a concurrence in opinion, that I will ask, if with such disadvantages, with such an inferiority of numbers, as well as such a composition of troops, it would have been a wise, or a prudent measure to enter the lists with the French Commander? But, Sir, if under any circumstances, it would have been imprudent, or unwise, does it not become infinitely more so, would it not have become highly culpable, when no advantage could have been gained by success, any way adequate to the fatal consequences that would have resulted from misfortune, when absolute destruction followed a defeat, and this hazard (if hazard it can be called) was in direct violation of the express written orders of His Excellency the Commander-in-Chief? In the 13th section of his Instructions, His Grace distinctly tells me, "that the success of all our endeavours, depends upon none of the operating armies being beaten, and that he will pardon every thing, but one of the Corps being beaten or dispersed."

It may, however, be said with truth, that in addition to the Anglo-Sicilian army, I had the co-operation of the 1st or Spanish Catalonian army to depend upon; before, therefore, I can expect an answer to these questions, it becomes necessary to enquire into the numbers and efficiency of that army, that a just value may be given to the assistance which it could have afforded. As, Sir, I had not much opportunity of seeing this army, I will not intrude my opinion of it upon the Court, the opinions of its own Commander, and of the Chief of its Staff, must have much more weight.

We cannot suppose that they saw it with prejudice, or that they would represent it in a more unfavorable light than it deserved, and that too, when the object was in one case, to induce a co-operating force to be sent to Catalonia, and in the other when sent to remain there. We shall see in how far the opinion of these officers correspond with that of General McKenzie.

In Colonel Cabanes's Memoir, then, of the 14th March, we find this account.

"It cannot be denied, that in general, the troops composing the first army are brave, and that amongst its commanders and officers, there are several of the most gallant conduct, and great knowledge.

"However, to speak the truth, we must confess also, that on account of the disasters they have met with in Catalonia, the species of warfare they have made in that province, and the continual movement in which these troops have been, they are in want of that subordination and discipline, so indispensable in every military operation, and in general, the cause of all victories.

"There is no doubt but that the individual bravery which is perceived among the majority of its individuals, and their particular fitness for executing rapid movements, and supporting great fatigues, are the causes that the want of the above two circumstances is not so much felt, especially in a country where the war is carried on in the mountains, and, consequently, by detached and separate corps.

"Notwithstanding, it must be confessed, 1st. That the infantry is not well instructed in the science of manoeuvres, and in the operations of a siege. 2d. That the cavalry, though full of enthusiasm, has not sufficient instruction for being as useful as it might be. 3dly. That the artillery, though under the direction of officers, who have always preserved the former splendor of that corps, wants the means for serving with effect, and rendering itself terrible to the enemy. 4th. That the corps of sappers is nearly in its cradle. 5thly. and finally, that this army has no magazines, nor transport, nor clothing, and often also that it is in want of ammunition."

Such, Mr. President, is Colonel Cabanes's account of the Catalonian army, ten weeks prior to the disembarkation at Tarragona, and it appears to me, that he deserves much credit for the candour with which he conveys to me, the account of the inefficiency of the army of which he had the

principal management. The bravery of the infantry, and the skill of the Commanders, are subjects of his praise; but to speak truth, he adds, they want the only two indispensable qualities in military operations to insure victory, namely, discipline and subordination, and they are good for no warfare but that carried on in the mountains, and by small detached parties.

Unfortunately, in this point where they excelled, we did not require their service; it was a flat country in which the scene of action lay, and there the Colonel tells us, they want subordination—they want discipline—they are uninstructed in movements, and they know nothing of the operations of a siege. The amount of which is neither more nor less than this, that the infantry were equally unfit to be employed in covering the siege, as at the siege itself; the cavalry was so inconsiderable in numbers, that it is not of much consequence what they were—they are full of enthusiasm, but not useful. I have seen no part of them, except the Captain-General's Guard. I can only, therefore, put the natural construction upon Colonel Cabanes's words, which to me convey this idea, that, however, zealous they may be in the cause of their country, little can be expected from them in the way of assistance.

With respect to the artillery, it is indeed with great truth that Colonel Cabanes tells us, they wanted the means of being terrible to their enemies, and of serving with effect.

They had not, Sir, one single piece of cannon of any description whatsoever, an implement of terror, which it is very necessary that the artillery should possess, before the enemy at least would acknowledge that the former splendour of the corps was preserved, and before I could have derived any material benefit from their assistance.

As for the corps of Sappers, we are told by Colonel Cabanes, it was only in its cradle, and this was not a moment when I could afford to wait for the advantages of its maturer state.

To complete all, Sir, this army, whose infantry is without discipline, whose cavalry is without instruction, whose sappers are without experience, and whose artillery is without a field piece; this army, Sir, possesses neither magazines, nor transport, nor clothing; it is very frequently deficient in ammunition, and always (it might have been added) in want of money; whilst the soldiers, as General Copons states, are fed only by what they can purchase. Let not be accused, Sir, of making invidious reflections; I do

not mean to do so ; what I urge, is in my own defence, and founded upon public documents. I have introduced no observations of my own, that are not confirmed by the papers which will be laid before you.

I have, Sir, no written document as to General Copons's opinion of the discipline of the army he commanded.

On this subject, in as far as I recollect, all was verbal ; but the report which I have above quoted, was drawn up by General Copons's order, and was sent to me by himself ; I conclude, then, that he approved the picture it exhibited, at least that he assented to it, and that if he had not found it a correct representation, it never would have been officially forwarded to me. But, Sir, every conversation I had with General Copons amply confirmed this opinion, and in other words he told me nearly the same facts. He told me in plain and direct terms, that his army could not manœuvre, that if I would place them in a strong position, they were brave, and would stand, but that further he could not answer for them ; and, Sir, he told me in addition to all this, in which, I think, he judged correctly, that unless his army was so disposed, that his retreat was open to the Mountains, he would not put himself in line with us at all.

Now, Sir, independent of there being no such ground in the neighbourhood of Tarragona as the General required, the choice of a field of battle, or a succession of fields of battle, could not rest with me ; attacked by two armies, crippled by the want of equipments, and embarrassed with a siege, as I was, and being obliged, besides, to attend to our own communications with the sea, to which only I had to look for a retreat or supplies.

I do not blame General Copons for the caution, I saw the difficulty before he mentioned it, for it required no great penetration to discover, that if the Catalonian army was cut off from the northern part of the Province, it could not be supplied when in the field, and must be captured, if necessity compelled the Anglo-Sicilian army to embark. In the situation in which we must probably have engaged, or, at all events, which Marshal Suchet could have forced us to, namely, with our rear to the sea, the Catalonian army could not have acted with us at all ; and, Sir, in other situations, I had not only to keep open, against a superior force, the northern and southern line of operations, but, whether the ground was favourable or not, the Spanish army must always have been kept at the northern extremity of the line, to assure its retreat, while, from the nature of the troops, it

might so have occurred that they were unequal to maintain it.

This, Sir, is not a supposed case, for even in the short time the enemy was near us, from what did occur, I sufficiently saw the impossibility of the armies affording each other that assistance and co-operation, which the exigency of the case so imperiously demanded.

It was unfortunate that another large division of the Allied army was in the same situation—I mean General Whittingham's. To ensure the utility of these troops at the battle of Castalla, I was obliged to entrust to them the key of the position, because the ground was strong. The same precaution, as to ground, would have been required in Catalonia, and if neglected, the defeat of the army probably followed.

With respect to the strength of the Catalonian army, I beg to refer to the return accompanying this address; it is the most satisfactory document I ever possessed on this subject. To this return I attach a disposition of the army, as prepared by Colonel Cabanes on the 11th of June, and to these two states I have added a calculation of the army actually with us in the field, and consequently disposable on the morning of the 12th. I believe, Sir, it may be just to add a few hundred men to this latter state, because it is probable that the regiments in the field were reinforced by some of the men stated as not disposable, and it will then agree with the calculation I had made, of the effective numbers on which I depended, founded on the conversations I had with the Spanish officers on the subject.

The numbers really effective and efficient amount, as the Court will see, to 5973 men, including the two regiments at the Coll de Ballaguer. I always believed General Copons's army, in the vicinity of Tarragona, to consist of about 6000 men.

Such, Sir, was the force and general state of efficiency of the Catalonian army, with which the Allied forces, under my command, had to co-operate. The state of a gallant nation, overrun by its enemies, and, for a long time, deprived of its government, is the best apology for such a situation, and no shame can arise from the exposure; but it is no apology for the opinions of those, who would have had me count upon impossibilities, and found the safety of the army, entrusted to my command, on the weak basis of such co-operation.

I will not detain you, Sir, with any further comment. I feel that I have already intruded too long upon the attention,

and I fear I may have exhausted the patience of the Court. I shall only beg that it may be recollected, that weak and inefficient as this army was, it could not, for want of magazines, be kept together in force, more than a few days; that in very few positions it could act with me at all, and that I had no co-operation whatever to expect from any other army in Spain.

A comparative state of the opposing armies is now before this Honourable Court, and I have no more information to offer. It may, perhaps, still be the right of the accused, and if not the right, I ask it of the justice of the Court, to permit me to make some observations on what has already been stated; and to expose, for the information of its Members, the view I took of our situation, and the motives which guided my conduct.

I have hitherto, Sir, endeavoured, and, I hope, not unsuccessfully, to convince the Court of the utter impracticability of transferring the war into Catalonia, from any prospects that arose out of a co-operation with the Spanish army, whereby, in the first instance, (and, in the first instance, only) the cannon might have been saved. It will now be my object to point out the fatal consequences that would have resulted from following Admiral Hallowell's advice, and delaying the embarkation, at a period when every hour increased the danger of our situation, and rendered the necessity of embarkation more pressing. I intreat these points may distinctly be kept in sight, and that the Court will not accuse me of entering into discussions which might otherwise, at first view, appear unnecessary, and unconnected with the subject.

In the course of my Defence I have more than once informed the Court, that one great object, which I proposed to myself by remaining before Tarragona, was to draw Marshal Suchet from Valencia, that the province might more certainly fall into the hands of the Duque del Parque, and thus accomplish the first object (and no doubt it was the object of the first importance) which his Excellency the Commander in Chief had in view, when he framed the orders of the 14th April.

A second motive for my continuing the siege, was a hope, however faint, that some chance of war might throw Tarragona into our power. I had, besides, the well-founded expectation of considerable reinforcements; and I had lastly reason to hope, that another line of operations might have been pursued by the enemy, by which some days would have been gained.

But, Sir, on the 11th at night, all these inducements ceased to exist. Marshal Suchet had arrived at such a point, that his next march brought him almost to our lines. No accidental circumstance had occurred to favour us. The reinforcements I had reason to expect did not arrive, and the march of the enemy, in a direct line, was clearly decided.

A duty now arose, not new, indeed, but more imperiously prescribed as the danger approached; this was the preservation of the army entrusted to my care, and not its mere preservation only, but its preservation in that state of efficiency, which should enable it to act effectively in the sphere prescribed to it by the Commander in Chief; and which its strength and position, on the eastern coast of Spain, so distinctly pointed out. But, Sir, if I had not myself felt such to have been my duty, it was too plainly written by the Duke of Wellington himself to be mistaken; and in spite of Admiral Hallowell's belief at that time, (for I shewed him the paragraph I allude to) and of the Judge Advocate's observations now, that his Excellency could never have intended that this order should have a reference to the Anglo-Sicilian army, I am convinced that the Court will be satisfied, that there was no officer in command to whom it had a more direct application than to myself.

I do not say this in vanity, as wishing it to be thought that the Duke of Wellington feared too much enterprize on my part, nor in disparagement of myself, as if want of conduct and rashness were to be apprehended; but solely, because the Anglo-Sicilian was the army of the first importance to his general plans. It was the army which alone created, I may say, a military force on the eastern coast of Spain. Its existence put in activity the 2d and 3d Spanish armies, and it prevented the annihilation of the first. A defeat or disaster paralyzed, to say the least, the whole of these forces, and what would have been more sensibly felt at every period of the Campaign, and more particularly about the end of June, would have enabled Marshal Suchet to detach, on the right flank, or even in the rear of the Duke of Wellington's army, a force of any magnitude he pleased; but certainly 18 or 20,000 men could easily have been spared. It is easy to perceive the effects such an operation would have produced during the siege of St. Sebastian, and the blockade of Pampelona; I fear no contradiction as to the fact, and the consequences appear to me to require no illustration.

The army of Alicant, as it has been called, never could, in my opinion, and in the opinion of many others, be con-

sidered in any point of view, but as an army of diversion in favour of that under the command of the Duke of Wellington.

It was for the great general plans of his Excellency that we worked, and for no particular plan of our own.

The Commander of that army had no right to put it in a situation where it could be beaten or dispersed, without his Grace's express sanction, and still less right had he to do so in opposition to his Grace's orders. To hazard such misfortunes, was to play a deep game at the Duke's expense, as it might have let loose upon him, at a most critical moment, a force which he calculated, and had a right to calculate, we should have held in check.

Impressed, as I was, with the firm conviction, that this was the true situation of the Allied army under my command; impressed, too, with the belief, that a delay in the embarkation as required by Admiral Hallowell, did not only expose the army to imminent hazard, but to probable destruction, with such feeling I should, indeed, have been unworthy of the honourable commission I hold, if I had complied with the request, or allowed any personal feeling to weigh with me. I have no doubt, Sir, that had I chose to risk an action, that, whether successful or not, the public, at least, would have been silent. But what would the Duke of Wellington have said to a report I should probably have been obliged to make, that I had lost the flower of my Infantry; that my field train was captured, and that, to save the men, the horses of my cavalry had been slaughtered on the beach?

And what other fate, Sir, with such inferior numbers, and composed as it was, could the Allied army have expected? If it was beat in an action, no other could possibly have attended it, and who will be rash enough to doubt that such must have been the case, where about 19,000 men, of which only about 5600 were British and Germans, the rest Sicilians, Calabrese, and Spaniards, these last, unequipped even to their artillery, were opposed to upwards of 22,000 of the best troops of France? For, Sir, it must be recollected in this situation, the Garrison of Tarragona comes into the account. This body of troops must either be added to the enemy's force, or a proportionate deduction must be made from ours.

To have masked that Garrison would have been indispensably necessary; and as it would probably have been allotted to Spaniards, a force of 3000 men would not have been more than was required. The total evacuation of the town, by the inhabitants, left the enemy at liberty to detach from it what he pleased.

Perhaps, Sir, the certainty of defeat will not be admitted; the probability, I should think, cannot be disputed, and still less the consequences, by any officer, at least, who has ever witnessed the embarkation of an army in presence of any enemy whatever. The expedition to Ostend is not forgotten, and that at Corunna is fresh in the memory of us all. And yet, Sir, how widely different was the situation of Sir John Moore's army from that under my command. A successful action had been fought the day before. A castle covered the embarkation, and a harbour facilitated the operation.

In this case the reverse of all these advantages will be found, with the additional impediments, that the embarkation must have taken place almost under the fire of the enemy's fortress, affording him protection if repulsed, and furnished with artillery, of a weight, that might have driven every transport to a distance from the beach, and rendered of the utmost hazard, if not impracticable, the approach of the boats to the shore.

But the fire of the enemy was not what we had alone to fear in this respect. The winds and waves, if not our most formidable adversaries, might have been to the enemy most powerful auxiliaries: for, Sir, there was not a moment when we should not have had to apprehend an interruption to the embarkation, and those delays which might have produced the most fatal consequences.

And what had I to expect in return for all this hazard, after my object of drawing Marshal Suchet from Valencia was attained? Would Marshal Suchet, with an army so situated as his was, permit me to give him that decided blow, that left me master of the field? Nay, Sir, unless it suited his own views, would he have allowed me to bring him seriously to action at all? seeing that necessity must soon compel me to embark, when for several days, (if in the presence of an enemy it was at all practicable,) the most favorable opportunities must offer for him to become the attacking party. I say for several days, and I fear no contradiction, when, even without calculating the usual difficulties of the beach, the boats must have been employed in provisioning the troops, and landing forage and water for the horses.

Now, Sir, it is possible, that by this Charge, no censure is meant to be conveyed, because I did not remain fixed, as it were, in Catalonia (a measure I have, from the inequality of the armies, shewn, would have been most inadvisable;) but that censure is meant to be implied, that I did not,

at least, remain sufficiently long to embark the cannon and stores ; and from the way in which Admiral Hallowell's letter is worded, it would appear that I had only to wait till night, to effect this, so much desired operation.

But this, Sir, I must again repeat, is not the question. I am ready to grant, if required, that all the guns and stores might have been embarked, during the night of the 12th ; but should I not, by this delay, have given the necessary time for the enemy to attack me, and even, if still at a distance of a few hours march, could I have dared to commence an embarkation. The delay, to say the least, must have extended to eighteen or twenty hours, for it commences at twelve o'clock of the 12th ; and my situation just became so much more critical, as the enemy had turned that time to his advantage. I allow then, Sir, that about six o'clock on the morning, the whole of the embarkation of guns and stores, would have been completed ; but it must be granted likewise, that the whole army, with its field train, is on shore. Villa Franca and Perello have both been proved within two days' march, and what, then, as both columns of the enemy arrived on the 11th, at these places, could prevent one, or both indeed, of these columns, from appearing in our front, at the moment the embarkation was about to commence ? The column of Marshal Suchet might not have arrived till the middle of the day, but that of General De Caen, aided by the garrison of Tarragona, would have been more than sufficient to prevent the possibility of embarkation for so short a period. An attack of General De Caen might have been repulsed, but a cover under the guns, or within the walls of Tarragona, was open to him, from whence his attack might be renewed, when it suited his convenience. The result of these attacks, as I am sure every member of this Honourable Court will perceive, could be no other than that I must ultimately have found myself engaged upon the beach, by the united and superior force of both columns of the enemy.

But, Sir, there is another objection to this delay, which I am sure must occur to every military mind, viz. that by the delay required, I should have lost the opportunity of sending the cavalry to the Coll de Ballaguer, even if I had dared to hazard a division of my army, when an action was so evident. In ten hours more, the communication might have been cut off, and I will prove that under forty hours, the horses and mules alone, could not

have been embarked ; and here it may be necessary to recall to the attention of the Court, that I must, from my position, have been deprived of the co-operation of the Spanish army. The Anglo-Sicilian army, then, would have found itself attacked by more than 20,000 men ; and my force to oppose, deducting the corps at the Coll de Balaguer, would have amounted to about 11,000 only.

Of the zeal, the gallantry, and the devotion of this inferior force under my command, I am not disposed, for a moment, to entertain a doubt. I am willing to believe, even, that such an example as I might anticipate from our British and Hanoverian regiments, would have excited a spirit of emulation, from which every thing, under other circumstances, might be expected ; but would this zeal, this gallantry, and this devotion have availed upon such an occasion, against such an overwhelming superiority of numbers, and would not the enemy, in spite of their best and bravest efforts, have been able, for the first time, to fulfil his boast—that he had driven the English army into the sea ?

Such, Sir, would have been the inevitable consequence of adopting Admiral Hallowell's advice. Mine, too, was a situation in which no middle course remained ; either I must have commenced the embarkation in such time that I had a fair prospect of terminating it, or I must have determined not to embark at all ; for nothing could have been more fatal than the being attacked by the enemy, during the course of this operation. In this respect, Sir, a retreat to a fleet, differs from every other.

On shore, an army may wait till the advanced posts are in contact with the enemy, but that is not the case with an army retiring to its ships, and particularly with an army, as was our case, which had to look only to its own means for protection.

The hour of inferiority to the enemy must in the course of embarkation sooner or later arrive ; and, therefore, if it be not completed before the enemy stands ready for the attack, all must be lost after his superiority is established. If this, to its fullest extent, be true, we might have saved 2 or 3000 men if attacked by General De Caen alone ; but when joined with Marshal Suchet, not a man could have escaped.

The Court will, I am sure, perceive that the situation in which I was placed, was not one of an ordinary nature. The stake I hazarded was the whole army, it was not the

loss of a few men only,' or even of some thousand men, which in action might be lost, whilst the greater part of the army might have retired. I must either totally defeat the enemy, (and of that the Court can now judge what prospect there existed,) or I must make up my mind to total destruction.

I own, Sir, that deeply as I lamented the loss of the guns and stores, I dared not play so desperate a game, for I saw no prospect of success. If any thing more had been required to make me decide, or to mark the line of conduct necessary to pursue, I had only to recur to my instructions, which made the success of the campaign depend upon the integrity of the operating armies, which banished every excuse that might exist for misfortune, and rendered dispersion or defeat, the measure of punishment and of guilt. It is not too much to say this, nor is it too much to assert, when we refer to the prospects at that time opening to Spain and to the Continent, that the interests of the Peninsula, and of Europe, were interwoven with the result of the Duke of Wellington's operations: and that the success of these operations depended in a very great degree in the integrity and safety of my army, I have only to quote his Grace's instructions to prove.

Now, Sir, it has appeared in the course of the Defence on the second Charge, that the column of General De Caen's army, under the command of General Maurice Matthieu did not pass Arbos, and that, from thence, on the night of the 12th, it did retire towards the Llobregat.

If any previous knowledge of such intention on the part of the French Commander can be traced to me, I may be considered culpable; but otherwise it carries with it no reproach; I had not to calculate in so grave a case what the enemy *would* do, but what he *could* do, and were it not for the coincidence of Lord Exmouth's appearance in the Bay of Rosas, or the possible knowledge of our embarkation, I should still be at a loss to conjecture, what could have dictated the measure of retreat; but it could have arisen from no other cause, and I know it now to be avowed as the reason of his retreat.

It was, Sir, with this view I had requested his Excellency to make this diversion in our favour, and it is unfortunate that Admiral Hallowell, as it appears from his Lordship's answer, should have detained my first letter of the 2d till the 4th June.

It is undoubtedly of that date, and was in Admiral Hal-

lowell's possession, before I disembarked on the morning of the 3d.

By Lord Exmouth's answer, however, the Court will be satisfied both letters were conveyed by the same ship; and the Court will likewise see the nature of my communication of the 2d, by the copy of that of the fourth, which it is my intention to produce.

It is, indeed, difficult to calculate the consequences, if Lord Exmouth had received my first letter at a more early period. We may conclude that the passages of the vessel which conveyed it, and of the British fleet to Rosas, would have been equally expeditious; of this we are quite sure, that General De Caen must have received the intelligence, at least, 48 hours sooner; and, we may likewise conclude, that he would have pursued the same measure, namely, of retreat; in this case, which is self evident, General De Caen, on the 12th, would not even have arrived at Barcelona; and, consequently, I should have had the army of Marshal Suchet only to contend with. The choice in this case would have remained with me, either to give battle to the enemy, should he enter the plain of Tarragona, or to embark the ordnance and stores at my leisure.

But to return to the subject of De Caen's army; not only did I know nothing of the enemy's retreat, but it was impossible that I could even calculate upon the chance of it. What could be more improbable than that an army, which, from so great a distance, had arrived by forced marches, should on a sudden retire when within reach of its object, and that too, when, to all appearance, its movements were combined with another corps, for so the movements of the different columns did appear to be, and if the effect of accident, I am sure design could not have arranged them better.

I do, therefore, again repeat, that this temporary retreat of the enemy on the Barcelona side, does not in the least degree affect the question of the propriety or impropriety of my measures, for I had not to reckon on the forbearance of the French General, but on his utmost activity.

In the course of this Defence, I have been desirous to meet the Charges in every shape, not only in the ostensible shape in which they stand, but in every other which they can be construed to assume. Perhaps, from my anxiety to answer every possible objection that can be made to the line of conduct I pursued, I have intruded to an unreasonable length on the time of the Court, but composed, at it is, of officers keenly alive to their own military reputation, I do

not doubt their indulgence on an occasion where mine is so deeply concerned. They will admit, at least, that this anxiety is a natural feeling, and as the present is the only opportunity I can ever have of justifying measures, which have been so severely attacked, and have attracted so much of the public attention, I may be reasonably excused for wishing to make my defence, not only complete in itself, but ample as to every future objection.

The Charge now under investigation, is allowed to rest upon Admiral Hallowell's information, and a neglect of his offer of assistance, if not absolutely the crime of which I am accused, is, at least, a great aggravation of my offence.

I have attempted to shew the value of that offer of assistance, and the consequences which at the time threatened to follow the acceptance of it; and from what has been said, I sanguinely hope that this Court will be convinced, (if argument on the subject were necessary) of the great imprudence, I may say, culpable error, I should have committed (being resolved to re-embark) in delaying the operation till the enemy should have an opportunity of attacking me during its progress; and I trust, too, that the Court will be convinced of the propriety of the resolution I had taken.

If I have been fortunate enough to satisfy the Court that the Allied army was neither from its numbers, composition, or equipments, equal to contend with that of the Enemy, it follows that whatever should expose it to the unequal contest must be injudicious and culpable as militating against my orders expressly written, and on these grounds I contend that any measure which should tend to bring me into contact with the enemy after the 11th at night, would have been in so much the more censurable, as I should myself have sought the situation I wished to avoid.

I allude, Sir, to the different plans, either of marching to oppose General De Caen, or to arrest the progress of Marshal Suchet. To both these I answer, that my force was unequal to the contest, and, that whatever portion of it was left before Tarragona, must have fallen a sacrifice to the one or the other of these Generals. I shall avoid all calculation on this point, the strength of the contending armies being already before the Court. I may be permitted, however, in conclusion to observe, that delay, however produced, must ultimately have brought me in presence of the united columns of the enemy. With the small divided force under my command, what termination could then have been

expected? The gallantry of the troops might, indeed, have forced the Enemy's ranks, and enabled them to reach the beach; but, what courage, what discipline, what arrangements, could have enabled them to advance a step further? A death, glorious indeed to themselves, but unprofitable to their country, or certain captivity, alone remained to them. Sir, no man can regret more than I do, the cannon and stores, that were left in the hands of the Enemy, or that the Enemy, as might be expected, should boast of them as trophies. But he could not boast of them as useful trophies, he could not boast, that the possession of them altered the face of the Campaign, or, that the loss of the stores crippled in the most distant degree, an army which subsequently kept in check so large a portion of the troops of the enemy.

That army was still entire, it did not lose by this embarkation, and which Admiral Hallowell calls unprepared, one man, one horse, or one piece of field-artillery.

It was not even disabled from a siege in any material degree, for it lost only seventeen serviceable and one unserviceable, out of ninety one pieces of cannon. But, Sir, would not the Enemy have been enabled to boast of the importance, as well as the possession of trophies; if, instead of the spiked, and useless cannon, which he is so minutely represented as conveying into Tarragona, he could have proclaimed the removal of all our field-train, and its equipments into the fortress?

Would the lifeless bodies of some thousand soldiers that had died unprofitably, or the carcasses of many hundred animals slaughtered upon the beach unnecessarily; would these, I ask, have been less a trophy than a few unserviceable and dismounted cannon? Would the capture of our standards, and the captivity of some thousands of our countrymen, have been less a subject of triumph for the pen of Marshal Suchet? Would these have been no trophies? Yes, Sir, they would have been trophies, and incontestible proofs, at the same time, not only of the destruction and defeat of the Allied army, and incapacity of its Commander, but trophies, which would have foretold to the world the inutility of all the efforts which had been made to bring the war in Spain to a successful termination, during the course of the Campaign which was then about to commence.

An event such as I describe, whilst it must have darkened the bright prospects then opening to the British nation and to Europe, and blasted every hope which the victories of the

Duke of Wellington encouraged us to cherish, must have brought down well-merited condemnation on the head of the unfortunate Commander. Sir, I do not paint this scene too strongly; I had every reason to expect that such would have been our fate, had I listened to the voice which counselled delay at such a moment.

Here, Mr. President, it was my intention to conclude, but before I do so, I intreat the indulgence of the Court to be permitted to correct two errors in dates which have inadvertently crept into my Defence.

The first is in the 2d Charge, in which I state, the signal made by Admiral Hallowell, for the Bristol to anchor, to have taken place on the 14th. It was the 13th, and the inaccuracy has arisen from the transcriber.

The other is an error of my own; it was the 17th, and not the 16th, that the officers of my staff saw the enemy at Cambrills, although the peasants reported them there the day before.

Having gone through all the Charges, and put the Court in full possession of all the details and intelligence connected with the operations under its consideration, and having candidly, and without reserve, laid before it all the motives which have actuated my conduct, I have only, before I conclude, to call your attention, Mr. President and Gentlemen, to the evidence given by some of the witnesses produced by Admiral Hallowell; upon this, however, I am happy to say, that it will not be necessary for me to trouble the Court at any considerable length. I may be permitted to take the evidence of Captains Withers, Bathurst, and Inglefield together, as they were called to speak very nearly to the same facts, and the same observations consequently apply to them all. Their evidence, coupled with the occasional observations of Admiral Hallowell, goes very materially to support my Case in many points, a natural consequence of the Admiral still pursuing his own view of the subject, and his entire ignorance of the nature of my justification; hence it is, that these officers are brought to prove that guns, mortars, and stores were landed, even up to the 10th, shewing by that means my determination to continue the siege as long as possible; the 8th and 10th are both mentioned, but not the 9th, yet it is stated generally, that articles were landed every day, with the view, I suppose, of inducing the inference that the beach was always practicable, although Captain Withers expressly admits that troops and guns could not be embarked and dis-

embarked at all times, and that difficulty was sometimes, but not often, experienced in the execution of the duty under his charge.

I beg the Court will likewise bear in mind that Colonel Williamson remembered, after some deliberation, his having reported to me that the Rockets had been lying two days at the back of the surf. This, in addition to other evidence in my possession, will go distinctly to shew, (notwithstanding the testimony given by the naval Captains) that the beach at Tarragona could not be depended upon for embarkation—It is hardly necessary to point out to the Court, the great difference there exists between embarking and disembarking, and that even the landing occasional articles on each day, affords no evidence of the practicability of a general embarkation; for often when the beach had been smooth early in the morning from a land wind, it became impracticable soon afterwards, and continued so much of the day.

Under these circumstances, I may fairly observe, that all this evidence of the Admiral's goes naturally to prove one part of my Case, while it no way disproves another. It proves my determination to continue the siege to the last moment, and has nothing to do with the question of my embarking the army and spiking the guns; for if the Admiral could have insured to me the most absolute command of the elements, and the certainty of a smooth beach on the 13th, it could not have altered the state of affairs which influenced my conduct, and induced me to resolve not to wait until that day. The conclusion which Admiral Hallowell wishes to establish, therefore, if it fairly arose out of the evidence, is wholly irrelevant to the question. Captain Withers is called further to prove, that he received a request to send boats for the Quarter-Master General's department at 11 o'clock, on the night of the 11th, before the Admiral had given him any orders upon the subject of embarkation.

In addition to this, the Admiral informs the Court, that his object in putting the last question, is to shew, that the orders for embarkation were so precipitate, that this measure had not been even communicated to him before it was acted upon. Here then is another instance, in which Admiral Hallowell does most materially assist me, for the evidence only shews that no time was lost (after I had resolved to embark) in making all possible exertion to prepare for it.

Evidence is given by all these officers of General Donkin's anxiety to embark the troops, with a view, I presume,

to infer precipitation on my part; but they all admit, on cross-examination, that General Donkin spoke of the immediate approach of the enemy, as from himself, and that it was merely a casual conversation of his own, in which I was no way concerned. This is certainly correct, and the Court must be fully satisfied, that I could never have stated my expectation to be attacked on the 12th, when I had been so carefully watching the approach of the enemy, in order to prevent any part of his force from molesting the progress of the embarkation. Lieutenant Cole, who gives an account of the same conversation, expressly says, that General Donkin upon some hesitation being shewn to follow his direction, said, that he would return and obtain my orders; clearly shewing, that in this particular instance, he had no reference to any but the general one already received, respecting the re-embarkation. It is next attempted to be proved, that the ships and gun boats could stop the approaches to Tarragona by their fire; upon which, however, after the knowledge the Court now possesses of the different roads inland, as well as near the beach, and of the total inefficacy of a particular attempt made for this purpose, it is unnecessary in me further to comment.

It has been alleged against me, that I changed my opinion at the suggestion of Admiral Hallowell, and that I suspended till two o'clock the march of the troops to the beach, while the guns continued to be embarked; I admit this fact, and have already observed upon it, but I am well satisfied that the Court will not follow Admiral Hallowell in the inference he wishes to draw from this circumstance, namely, that it marked indecision, because I listened to the arguments of an officer of his rank, and that upon a subject of comparatively little importance; for, provided the whole was embarked within the time intended, (and that it was so, is evident) of what consequence was it, whether the guns or the troops first took their departure? Admiral Hallowell would infer, that some guns and stores were saved by this measure, but, it must be quite clear to the Court, that even had the arrangement been different, the rear-guard would have continued on shore till the guns and stores were on board.

Upon the evidence of Lieutenant Bowie, and Captain Stoddart, as to the account of the peasant and of the position of the enemy, I have already observed.

Colonel Williamson is next called to prove various points,

which I will advert to rather according to the subject of evidence, than in the order in which they were given.

I will first take Colonel Williamson's information of the French being at Villa Franca at seven o'clock on the morning of the 13th. The motive for producing this, I am really unable to discover, for it does not in the least affect the information I had received, and which, I had good reason to believe, of the French advance having marched from Villa Franca towards Vendrills, although it afterwards appeared, that they had been at Arbos on the evening of the 11th; and as to the fact stated by Colonel Williamson, it is only a repetition of the peasant's story, which proved to be false, and which the Admiral himself afterwards (as I have before observed) contradicts, by the evidence he is so anxious to have admitted of Colonel Llauder.

Colonel Williamson also states his representation to me, that the guns could not be got out of the batteries the night of the 11th, and adds a promise he received from me, to wait until the next day; he afterwards admits, however, that whatever I said as to waiting, must be considered as only conditional. I admit, Sir, that no orders were given at this time for the destruction of the guns, but on the following morning, from intelligence received during the night, I was led to resolve on embarking, and having no reason to expect any favourable change in the enemy's movements, I directed those guns to be spiked, when the troops protecting the batteries should be withdrawn. As Colonel Williamson is the first witness who alludes to the orders in question, I may be permitted to close my observations on that subject, by comparing his testimony with that of Generals Clinton and McKenzie. Lieutenant Colonel Williamson states, that he received the orders to spike the guns in the batteries in the Oliva, as soon as General Clinton's division should have passed, and that this order was given him by Major General Donkin.

I will prove by General Donkin, that orders were sent to General Clinton to cause the guns in the batteries to be spiked, when his division should have passed them in its way to the place of embarkation, and that General Donkin requested me to repeat the order to Lieutenant Drew, who was present, and who was immediately sent to deliver it to General Clinton.

Colonel Kenah will prove, that when I ascertained in the course of the morning of the 12th, from a conversation with Admiral Hallowell, that the order I had given in

respect of the guns, was considered to be an absolute order, as stated by General Clinton and General Mc Kenzie, and not a conditional one, as observed by Colonel Williamson, that I immediately told Colonel Kenah that there was some mistake about the order for spiking the guns, and sent him to General Clinton to rectify it, and to wait my further instructions. I certainly sent no counter order to General Mc Kenzie, not supposing, from the arrangements I had made, that this officer had received any direction on the subject.

Lieutenant Drew's absence in America, prevents my calling him to explain this mistake, but General Donkin's evidence will establish what I have stated, and prove, that the mistake must have arisen from an error of Lieutenant Drew's, for which I cannot be answerable.

Colonel Thackeray is next called. This officer establishes, by the order relating to the assault of Fuerte Reale, the fact of my persevering (up to the moment of my receiving direct intelligence of the near and simultaneous approach of the enemy) in the prosecution of the siege. He establishes, likewise, some points in my favor, which it would otherwise have been necessary to prove; he admits the different roads by which the enemy could advance, both from the eastward and westward, and states, in direct contradiction to the officers of the navy, that the fire of the shipping could no way impede the march of the enemy, and even instances the passage of Marshal Sachet by the Ballaguer road, notwithstanding the attempts of a line of battle ship to prevent it.

I cannot find any part of Colonel Thackeray's evidence, which can apply to my Prosecutor's case, except that he knows no cause for raising the siege so precipitately, and really, Sir, as he did not know the intelligence I had received, and in his cross-examination admitted, that he neither knew the period of the enemy's arrival to the eastward or westward, at Perello, or Villa Franca, I am not aware how it is possible he should; but, does it follow, on this account, that there was no cause for it, or that I had no intelligence or information which not only justified the measure, but rendered it necessary, and imperatively called for by my instructions, with which, of course, Colonel Thackeray was equally unacquainted?

Really, Sir, I am at a loss to conceive how an officer of Admiral Hallowell's experience and character in the service, could for a moment suppose that such opinions, from

whatever authority they came, whether from Colonel Thackeray, General Mc Kenzie, or General Clinton, could have any weight whatever with this Court; it affords a strong illustration of the difference between evidence and proof. It is just admissible as evidence, but cannot surely be permitted to weigh in any degree against me.

For General Mc Kenzie's opinion, who was next called, if given with a full knowledge of all the circumstances, I should, in common with the Court and the army, have entertained all the respect it deserved; but when the General admitted, that in stating his expectation of brilliant success, he had never heard of, and did not advert to Marshal Suchet's advance from the westward, I pursued the cross-examination upon that part of his evidence no further; the expectation formed by the General, of brilliant success, is acknowledged to be founded on the supposition, that General De Caen alone was approaching. He admits his total ignorance of the other, and more important column, of the enemy; and yet, Sir, he proves the appearance of the French near the Coll de Ballaguer, on the 13th or 14th, (he is not sure which) and that a part of the troops under his own command, actually carried a height at the eastern extremity of the Pass, on the evening of the 14th. General Mc Kenzie has further allowed, that in his absence to Vandellos with me on the morning of the 15th, he saw large bivouacs of the enemy, and that the 1500 men stated by the Admiral to be *somewhere*, proved to be a column of such strength, as to render a reinforcement of two battalions necessary to attack it.

The General admits the perfect regularity of the embarkation, in direct contradiction to the precipitation and confusion with which I am charged. His opinion, indeed, of General Copons' army, and its state of efficiency, is a good deal exaggerated; but, I believe, they will hardly be admitted in preference to those of Colonel Cabanes, which are already before you.

The General's observations on the blockade of Tarragona, by 1900 men, will still be in the recollection of the Court; and, I advert to this, as well as to his acknowledgment of the little information he possessed, of the points which it became immediately necessary to guard, with no other motive than to prove the precipitancy, with which opinions have been formed to condemn me.

Now, Sir, in reply to that part of General Mc Kenzie's evidence, which so much extols the state of the army

under my command, I can only observe, that I cannot go quite to the extent he might wish.

Much of this army, no doubt, merits the warmest commendation which I can bestow; but, General Mc Kenzie will, I hope, excuse me, from making this praise universal, when I recollect, that he did himself report to me that, on one occasion, the foreign troops threw away the ammunition for the batteries when they came under fire, and that he was obliged to order a party from his division to complete the work. It was equally impossible for me to forget, that a very short time before the period in question, one regiment had been disarmed and embarked, to check excessive desertion, and supposed connivance with the enemy. These are circumstances, Sir, which may tend to lessen the degree of confidence which the Court might otherwise be led to place in the evidence of General Mc Kenzie. With me, at least, they must have weight, united with the representations which Sir William Clinton made to me, on more than one occasion, of the inefficiency of his division to perform the service which I might have expected from its numbers.

Lord Frederick Bentinck is next called, to prove how little I expected the approach of the enemy, from the circumstance of my having given his Lordship no particular instructions for vigilance in the afternoon of the 11th.

I will enter into no particular comment on this subject, further than to justify myself, if necessary, by acquainting the Court, that I was returning, at this time, from General Copons' head quarters, which were then eight or ten miles in his Lordship's immediate front; but, I must be permitted to add, in order to shew how little his Lordship's recollection is to be depended on, that, notwithstanding I considered the detachment under his orders perfectly covered, I did, upon consideration, send back my Aid-de-Camp, to desire him to keep a strong piquet on the road in his front.

The last witness called, on the part of my Prosecutor, is Lieutenant-General Sir Wm. Clinton. In making my comments on the evidence of this officer, I shall guard myself, I hope, against any of the feelings with which it appears to be conveyed. Sir William admits, without hesitation, that he is in the possession of no one ground, upon which the opinion of an officer should be founded; and yet proceeds, in no measured language, to stamp my proceedings with

all the obloquy which the maturest conviction of my guilt alone can excuse.

In the light of evidence, I am free to say, such vague, and loosely-formed opinions, do not affect me; but, coming from a quarter, whence I least expected them, I do confess, that the voice and manner with which they were accompanied, both shocked and surprised me. I will, however, refrain, Sir, from any thing that can look like a participation in the same spirit, that has been, in this instance, exhibited against me; and simply remark, that, the endless orders of which the General complains, are best excused by the little promptitude with which he seems to have obeyed them.

If I have offended the Lieutenant-General, by not exhibiting towards him all the confidence to which he considered himself entitled, I can only regret it; but, I hope it will be remembered, that I had higher duties to perform, than to conciliate private feelings, where the public service was concerned; and, that a Commanding Officer may surely be forgiven, if he does not, on every occasion, discover his plans to those, who claim from their rank, a participation in his counsels.

The opinions of Sir William Clinton, will, doubtless, go forth to the world, and, for a short period, his elevated rank, and distinguished situation, may give them a weight, to which nothing else could entitle them; but, in this Court, I may be allowed to hope, they will be of no value, unsupported as they are by any one principle on which they ought to be founded; and when the day arrives, which I humbly, but confidently, anticipate, when this Court shall take my military reputation under its protection, and compensate (if any thing can compensate) by its decision, for all the anxiety and suspense I have been exposed to; it will then be recollected, even by the least reflecting part of the community, that the evidence in question, was stamped with an acrimony that evidently displayed the spirit that produced it; that the author of it was, by his own confession, ignorant of my instructions, and equally uninformed of the strength, and movements, and position, of the enemy; and under all these circumstances, the public will learn, at last, to decide, how little such a testimony is to be valued, even when supported by the rank and consequence of Sir Wm. Clinton.

And I here, Sir, cannot help observing, that if the good of

the service, and the honor of his Majesty's arms, had alone influenced the feelings of General Clinton, the line of conduct he ought to have pursued, when he formed the opinion he has avowed was obvious and clear. Had he really believed, "that the precipitate retreat from before Tarragona, on the 12th of June, was not necessary or warranted; and that the measure of abandoning the siege of Tarragona, in such a way, had all the appearance of a disgraceful flight," I will ask of every Member of this Honourable Court, if it did not become his bounden duty to the army, and to his country, to seek Lord William Bentinck on the very moment of his arrival, and to lay before him, not only a full detail of the circumstances as they had occurred, but expressing to him the opinion he himself had formed, to demand that an investigation of my conduct should take place, and that I should be obliged, in justice to the army, to expose to the world the motives on which I had acted.

It cannot be enough for him to say, that he was aware of Admiral Hallowell's intention to accuse me; I contend, and I am sure that I shall be justified in my opinion, by every Member of this Court, that with such feelings, General Clinton only could be the legitimate champion, and vindicator of the honour of the army.

As I have already noticed the last document produced by Rear Admiral Hallowell, I shall not find it necessary to say much upon the subject. The unwillingness of the Admiral to lay it before the Court was not easily, in the first instance, accounted for; a perusal of it however, explains every doubt.

In the first place, Sir, this letter proves, that, in the opinion of Colonel Llauder, it was the intention of the enemy to advance on the evening of the 12th (since he was as he informs us expecting him.) It next proves that the enemy suddenly retired at 10 o'clock on the evening of the 12th; disproving by this means the evidence of Captain Stoddart and Lieutenant Bowie, whose peasant informed them that he had quitted the enemy's camp, stationary at Villa Franca, at 7 o'clock in the morning of the 13th; it proves further, that, in General Copons' opinion, the division of General De Caen had retired so decidedly, that he had commenced the clothing of his army, justifying, if that were necessary, in as far as the opinion of that General is of weight, the view I had, namely, that I was opposed at the Coll de Ballaguer to the army of Marshal Suchet alone; and, lastly, (since the post of Colonel Llauder was at the Coll

de St. Christina) it proves that a French army can reach Tarragona from the eastward, although Admiral Hallowell with his whole fleet were at anchor between Torradembara and Altufalla. All these points, Sir, are sacrificed to corroborate the Admiral's assertion, that the column of the enemy consisted only of 5500. In how far he has succeeded the letters and reports which I shall have the honor to produce, will best enable the Court to decide.

I have now only to lay before the Court the evidence to which I have alluded in the observations I have made upon the different Charges. It was, at first, my intention to have classed it in the order, and according to the arrangement of the Charges themselves, but upon further consideration I determined on another arrangement. This course would have compelled me to enter into explanations as I proceeded, in order to prevent the continual repetition of the same evidence, as applicable to the different accusations against me. Under these circumstances I have conceived that an arrangement of the documentary evidence, as well as of the testimony connected with it under different heads, would enable me to bring the whole before the Court, in the clearest and most concise form possible. I purpose, therefore, first, to produce in regular order all the intelligence to which I have alluded, together with all returns and proofs relative to the strength and numbers of the Allied army under my command, and of the forces of the enemy; secondly, to introduce such testimony as to the orders issued by me, and the time of their delivery during the operation in question, as is not already before the Court; and, lastly, to bring forward such general evidence, in relation to some of the points under consideration, as may be necessary to the complete understanding of the principles upon which I found my justification. This will not, I hope occupy much time, and I propose to begin with the intelligence as first in order.

I beg to say, that the evidence I shall call at present, is merely for the authentication of signatures, and that I shall call the witnesses afterwards, with respect to facts.

Judge Advocate. Sir Benjamin Hallowell will understand that he will have those witnesses again to cross-examine, and, therefore, probably he will suspend his cross-examination till they are called again.

Rear Ad. Sir B. Hallowell. I will wait till I hear what questions are proposed to them.

Lieut.-Gen. Sir John Murray. Whether it becomes ne-

cessary or not, I shall make a point of calling them, to afford an opportunity to any questions being put by my Prosecutor, or by the Court.

Judge Advocate. The first paper put into my hand purports to be a Memorial concerning the operations of the enemy, by Colonel Cabanes, in December, 1812, the original, I am told, is in the possession of the Duke of Wellington. This is only a translation which appears upon the face of it. There is a Certificate in these words, "a true copy—Cabanes," "a true translation, A. Steiger,——— Aid-de-Camp." I believe, Sir John Murray proposes to prove the hand-writing of Major Steiger to this translation; but I would submit, whether it can be considered as sufficient evidence, that this is a Memorial of Colonel Cabanes; there should have been some proof of the original.

Lieut.-Gen. Sir John Murray. I asked his Lordship for this, when I saw him at Paris, and he said it was in London, with a room full of papers; there appearing, therefore, no possibility of procuring it, I acted upon this.

President. This is a translation of a Spanish report transmitted to Lord Wellington. Sir John Murray proposes to prove the hand-writing of the person who transmitted this to him as an official document.

Judge Advocate. What is offered at present, is only the hand-writing of the translator, if we had the translator here to say that he knew the hand-writing of Cabanes, that would render it evidence. It is not evidence, certainly, in a Court of Law.

Lieut.-Gen. The Hon. Henry George Grey. Is not Cabanes' signature to it?

Judge Advocate. The signature is a copy also.

Lieut.-Gen. Sir John Murray. It gives a very particular account of the state of the French armies in Catalonia, at that time; but it is not of very great importance, if there is any objection to it.

Judge Advocate. I must take the sense of the Court upon it; the Court are aware how it stands.

Lieut.-Gen. Sir John Murray. The original of that document was brought to me, by General Adam, from Colonel Cabanes, it was then translated by Major Steiger, and I forwarded the original, keeping the translation.

President. Have you any evidence to prove that any one saw the original, and saw this translated from it, and can swear to the fact of its being a proper translation of it?

Lieut.-Gen. Sir John Murray. I never took those precautions, and am not prepared to give that evidence.

General Harris. Sir John Murray wishes to lay it before the Court, not as evidence, if I understand right.

President. It is laid before the Court with a view to its being evidence. If Sir John Murray chuses, rather than clear the Court, to let it rest, and proceed upon another paper for the present, that may be done.

Lieut.-Gen. Sir John Murray. Certainly.

Judge Advocate. This then is to be considered as a document not received, but remaining in doubt. The next paper put in is, at present, in the same state, but Sir John Murray has the original, which he will produce; this is as to the quality of the troops of the first army; this may be authenticated when the original is put in, then there will be some difficulty as to the translation, unless you have some person here that can look over the original, and see that it is a proper translation; that will be more satisfactory than any person proving merely the hand-writing of the translator.

General Sir George Beckwith. The original document should be produced, certainly.

Lieut.-Gen. Sir John Murray. This paper was proved by Colonel Thackeray, (*handing it in.*)

Judge Advocate. This is a Memorial relating to the first Spanish army in the province of Catalonia, by General Copons.

Lieut.-Gen. Sir John Murray. Immediately on receiving Lord Wellington's orders, I sent Colonel Thackeray to General Copons' for information, and he brought that Memorial back, and translated it himself.

General Harris. This is what was before proved by Colonel Thackeray; that is in evidence.

Lieut.-Gen. Sir Samuel Auchmuty. It would save a great deal of time, if Sir John Murray will point out those parts upon which he relies in his Defence, and to have merely those parts read.

President. Perhaps the whole of this applies in some degree to your Case, being a Memoir of the state of that army.

Lieut.-Gen. Sir John Murray. I think so.

President. You will either have it received and read now, or merely put in, and the whole read together.

Lieut.-Gen. Sir John Murray. I should think it will be better to have them all read together, and after the rising of

the Court, I will go over the papers with Mr. Larpent, if he will allow me, and mark such parts as need be read?

Judge Advocate. It is suggested on the part of Sir John Murray, that in order to prove many of these documents, it will be necessary to have two witnesses here together. General Whittingham merely to prove the translation, and another witness to prove the original. I suppose there will be no objection to two witnesses being here together for that purpose, no other question being proposed to one in the presence of the other, all which will be necessary to prove as to this is, that you received this paper.

Lieut.-Gen. Sir John Murray. That I was in the habit of receiving this information, and of acting upon it.

Lieutenant-General Montessor. The Court well know that that information must naturally go to Head-Quarters.

Lieut.-Gen. Sir John Murray. During the greater part of the campaign, most of the information I received was in that way, from the magistrates, and different persons in the country.

Lieut.-Gen. Sir Samuel Auchmuty. Information of which the Commander of the Forces was in possession, and upon which he acted, must be admissible, of course.

Judge Advocate. This paper is signed Jose Llas Bailet.

Lieut.-Gen. Sir John Murray. Captain Milner was my Military Secretary.

Judge Advocate. The Court understands this is one of the papers General Murray was in the habit of receiving at various periods; he calls Captain Milner, who was his Secretary, to prove that he was in the habit of receiving such papers, and then General Whittingham to prove the translation.

Captain Charles Milner, sworn.

Examined by the Judge Advocate.

Q. You were in the habit of seeing different papers received by Sir John Murray?

A. Yes.

Q. Do you believe that to be one of the papers he received, (*shewing it to the witness?*)

A. I believe this to be one of the papers he received from Perello.

Q. You do not know any thing of the person from whom it was received?

A. No, I do not.

Lieutenant-General Whittingham, sworn.

Examined by the Judge Advocate.

Q. Look at that paper and the translation, and see whether it is correct.

A. The only question I have upon it is, whether the word translated "waggon" is right, I think they should have rather translated it mules; but then there is the expression afterwards drivers, which seems as if it made allusion to carts or waggon, the word there used, appears to refer rather to the drivers of waggon or carts than of mules.

Judge Advocate. Upon the whole you think it is as correct a translation as can be made.

A. Yes, I think it is.

The letter dated Perello, 4th June, 1814, was put in.

Lieut. Gen. Sir J. Murray. I lay that before the Court, to prove that false reports existed at that time.

Another paper was shewn to Captain Milner.

Captain Milner. That was received by Sir John Murray.

Judge Advocate. Do you wish to have that read now?

President. I understood you to say, that you rather wished the papers to be put in now, and read hereafter.

Lieut. Gen. Sir J. Murray. Whichever is most convenient to the Court.

President. Whichever will shorten it.

Lieut. Gen. Sir J. Murray. Perhaps it will shorten it if I put them in now. I am accused of not raising the siege upon the 7th: I wish by these false reports to shew that I must have raised it on the 4th or 5th, or other days previous, if I had gone upon the reports which existed.

A paper was shewn to Lieut. Gen. Whittingham.

Judge Advocate. Is that your hand writing?

A. It is.

Letter from Gen. Whittingham to Sir John Murray, dated 8th June, put in.

A paper was shewn to Captain Milner.

Judge Advocate. Is that the hand writing of Mr. Tupper?

A. It is.

Letter put in from Mr. Tupper to Sir John Murray, dated 8th of June, 1813.

President. He was the Consul?

Lieut. Gen. Sir J. Murray. Yes, he was.

Judge Advocate. There is a letter purporting to be your hand writing, Admiral Hallowell.

It was shewn to Ad. Hallowell.

Rear Ad. Sir B. Hallowell. Yes, that is my hand writing — will you allow me just to look at that letter?

Judge Advocate. Strictly, the Admiral should not read it till it is read in evidence; but only look at the signature, for Sir John Murray may not at last read it.

Rear Ad. Sir B. Hallowell. I only wanted to look at the date, it is the 9th of June I see.

A paper was shewn to Capt. Milner.

Judge Advocate. Is that one of the papers you believe to have been received by Sir John Murray, giving him information?

A. Yes, I believe it is.

Judge Advocate. This is a letter from the same person as the first, the Alcalde of Perello, giving him information.

A translation was shewn to Lieut. General Whittingham.

Lieut. Gen. Whittingham. It is a correct translation.

Q. (To Captain Milner) Do you know the hand writing of Col. Prevost?

A. I do.

Q. Is that his hand writing? (*shewing a paper to the witness.*)

A. It is.

Judge Advocate. The next is a letter from Col. Prevost to Lieut. Gen. Sir John Murray, dated the Invincible, June the 10th, 1813; Captain Milner has looked at it, and states it to be the hand writing of Col. Prevost.

It was put in.

Judge Advocate. (to Lieut. Gen. Whittingham) Is that your hand writing? (*shewing a paper to the witness.*)

A. It is.

Q. That is a letter from you to Gen. Clinton?

A. It is.

Q. Did you inclose this translation?

A. I did.

Q. Did you see the original?

A. I did.

Q. And this is a correct translation?

A. It is.

Judge Advocate. This incloses a report from Colonel Manso, dated the 11th of June; the witness states that he saw the original which had been written by Col. Manso. Is that Col. Manso's hand writing? (*shewing another paper to Gen. Whittingham.*)

A. Yes, it is.

Q. Is that a correct translation? (*shewing a paper to the witness.*)

A. Yes, it is my hand writing.

Q. Was that paper transmitted by you to Sir John Murray?

A. I have not a doubt it was.

Judge Advocate. This was a letter from Col. Manso to Sir John Murray, dated the 10th of June; Gen. Whittingham proves the hand writing, and also, that the translation is in his own hand writing, and that he transmitted it to the best of his belief.

It was put in.

Judge Advocate. Is that your hand writing? (*showing another paper to Lieut. Gen. Whittingham*)

A. The signature is.

Q. Do you recollect sending this to Sir John Murray?

A. Yes.

Q. Did you see the original of the report of Col. Manso at the top of it?

A. I did.

Q. And that was in Col. Manso's hand writing?

A. It was.

Judge Advocate. This purports to be a report of Col. Manso, dated Villa Franca, 11th of June, 7 A. M. the witness states that he transmitted it to Sir J. Murray.

It was put in.

Lieut. Gen. Sir John Murray. This paper is a report I have mentioned in my address, which was sent to me by Don Larente, from Valencia, giving an account of 9000 having marched from that place under command of Marshal Suchet, it was sent by express, and by private signal; we had marked a signal on a piece of money by which I was to know it came from him, the only proof I could procure as to this, as Don Larente died a day or two after I went to Valencia in December, was the certificate of the British Consul, that he actually paid Don Larente for the boat.

The original and translation were shewn to Lieut. Gen. Whittingham.

Judge Advocate. Be so good as to compare the translation with the original.

A. The translation is correct.

Judge Advocate. There is no signature to this.

Lieut. Gen. Sir John Murray. He held an official situation under the government, and of course would not put his name, but the marked piece of money was, in fact, his seal.

Judge Advocate. The paper is without signature, but it is explained in this way: that a man came with a private

signal from Don Larente, who was paid for the expence of sending this information.

President. It is very rarely you can have proof of secret intelligence ; from the very nature of it, that becomes impossible.

Gen. Sir George Beckwith. It is admitted by Act of Parliament in the Court of Exchequer. I went and swore lately to the expenditure of all the secret service money which had been entrusted to me in my command.

Judge Advocate. You have no person acquainted with his hand writing, nor any other Letter from him.

Lieut. Gen. Sir John Murray. No, that was the only letter I received from him at that time.

Judge Advocate. This is a certificate from the Consul, that the person, who it is stated sent this information, was paid for the expences.

The Certificate of Mr. Tupper was put in.

A paper was shewn to Lieut. Gen. Whittingham.

Judge Advocate. Is that your hand writing ?

A. It is.

Q. Did you see the original ?

A. I did ; I received it and forwarded it to Gen. Clinton.

Q. Is this a faithful translation ?

A. It is.

Judge Advocate. This is a letter from Gen. Whittingham to Gen. Clinton, dated Camp, 11th of June, 1813 ; the report is dated 11th of June, Villa Franca.

It was put in.

A paper was shewn to Lieut. Gen. Whittingham.

Judge Advocate. Is that your hand writing ?

A. It is, I received that letter.

Q. Is that translation by yourself ?

A. It is.

Q. Did you forward that letter with the translation ?

A. I did, to Gen. Clinton.

Q. Is it a faithful translation ?

A. It is.

Judge Advocate. This is a letter from General Whittingham written on the back of the original letter of the person who gave this information, with a translation by General Whittingham on the side ; he states that the letter is in his hand writing, that the translation is a faithful translation, and that it was received by him and forwarded to General Clinton.

A Letter was shewn to Captain Milner.

Judge Advocate. Is that Colonel Prevost's hand writing?
A. It is.

Judge Advocate. I do not see either date or direction to this, it is only half past four P. M.

Lieut.-Gen. Sir John Murray. It is a letter I received in the night from Col. Prevost forwarded by an Orderly Dragoon, and which Admiral Hallowell brought on board to me, I believe Admiral Hallowell had the same information from Captain Sharpe.

Judge Advocate. Very likely the Admiral may not recollect this particular letter.

Rear Admiral Sir Benjamin Hallowell. If I recollect it I will admit it.

(It was shewn to the Admiral.)

Rear Admiral Sir Benjamin Hallowell. I will not read it through, because the first part I do not recollect; perhaps when I brought it to you it was sealed.

Lieut.-Gen. Sir John Murray. It was.

Rear Admiral Sir Benjamin Hallowell. I will not read it through till it is made evidence.

Judge Advocate. You recollect perhaps as you brought a letter at that period.

Rear Ad. Sir Benjamin Hallowell. I do not recollect it, but it is very probable; I will admit that I did, if General Murray says so, it is of no consequence.

Lieut.-Gen. Sir John Murray. If you will allow the contents to be read, they will mark the date of it completely.

President. As the hand writing of Colonel Prevost is proved, I do not see any objection to receiving it.

Judge Advocate. The only doubt is when it was received by General Murray.

Lieut.-Gen. Sir John Murray. It is the letter which occasioned my going to the Coll de Ballaguer in the night between the 12th and the 13th.

Judge Advocate. You state that it was received on the evening of the 12th, on board the Malta?

Lieut.-Gen. Sir John Murray. In the night in fact.

Judge Advocate. It stands at present proved to be the hand writing of Colonel Prevost by Captain Milner, the date of it is only proved by Sir John Murray, the indorsement being written by him, and he states that he believes it to have been brought to him by Admiral Hallowell.

Lieut.-Gen. Sir John Murray. I can state positively that it was brought me by Admiral Hallowell.

Rear Ad. Sir B. Hallowell. I will admit it, I think it is very probable. Mr. President, may I be allowed to make this statement respecting that letter, if it is the one I delivered to Sir John Murray, I did not embark on the night of the 12th, I staid on shore, for after embarking the troops, I went to the cavalry wharf, and if I delivered it to him, it must have been after 3 o'clock in the morning when I went on board.

Lieut.-Gen. Sir John Murray. I know it was in the night.

Rear Ad. Sir B. Hallowell. I only mean to say it was after the embarkation took place, and therefore could not influence the embarkation.

Lieut.-Gen. Sir John Murray. Certainly not.

Another Paper was shewn to Lieutenant-General Whittingham.

Judge Advocate. It purports to be a letter from General Copons to General Sir John Murray. General Whittingham states, that it is the hand writing of General Copons, and that he believes the translation shewn to him, is a correct translation, it is dated 16th of June, 1813.

It was put in.

Judge Advocate. There are, I understand, other papers which will be proved by General Donkin, and Captain Sharpe.

Rear Ad. Sir B. Hallowell. This paper, which I before presented, was rejected, because no officer could swear to the signature of Colonel A'Court; I wish only to know whether it may not be now verified, as one of the witnesses here can prove it?

Judge Advocate. There can be no objection to that, I apprehend.

Major General Rufane Shaw Donkin, sworn.

Examined by the Judge Advocate.

Q. Is that your hand writing? (shewing a paper to the Witness.)

A. It is.

Judge Advocate. This is a letter from General Donkin to Sir John Murray, dated June the 11th, it was sent by you to Sir John Murray?

A. It was.

Lieut.-Gen. Sir John Murray. This paper is a report from Mr. Tupper the Consul, who was with the army of the Duque del Parque at this period.

It was shewn to Captain Milner.

Judge Advocate. Is that the hand writing of Mr. Tupper the Consul?

A. It is.

Judge Advocate. This is a letter dated Castalla, June the 7th?

Lieut.-Gen. Sir John Murray. The other is a report from Brigadier Ferras, the Chief of the Staff of the Army of the Duque del Parque; it was an official report sent to me by Colonel Ferras, Chief of the Staff of the Duque del Parque's army.

Judge Advocate. You have no evidence of hand writing.

Lieut.-Gen. Sir John Murray. It was an official report sent me, I have been in the habit of receiving them.

Judge Advocate. Have you evidence who Ferras was, so as to prove he was the person to make such a report?

Lieut.-Gen. Sir John Murray. I believe General Whittingham knows that.

Lieut.-Gen. Whittingham. He was Chief of the Staff to the Duque del Parque.

Judge Advocate. Do you know his hand writing.

A. No; I do not think I could swear to his hand writing.

Judge Advocate. I do not understand Sir John, that you yourself knew his hand writing.

Lieut.-Gen. Sir John Murray. No, I never saw him write, but I had several letters from him in that hand writing which I have answered and received letters in reply.

Judge Advocate. The question is, whether the Court are of opinion this paper should be received? Sir John Murray states, it was a report he received, and that he received other reports in the same hand-writing, to which he replied and received answers.

Lieut.-Gen. Sir Samuel Auchmuty. Are there any of Sir John's family, who know of his having received that letter? Sir John's declaration is not evidence.

Lieut.-Gen. Sir John Murray. I do not know that any of my family can speak to the fact of my receiving that letter; I was in the habit of receiving such communications from the Chief of the Staff, of each of the armies.

Judge Advocate. It is the state of the second and third armies.

President. It would appear to me, there can be no objection on the part of the Court to receiving that, although there is no person to prove it is the hand-writing of the person who wrote it, Sir John Murray having stated that he received it as an official report, and was in the habit of corresponding with that person, the Court will give it that weight which they think fit.

Lieut.-Gen. Porter. It certainly is not legal evidence.

Lieut.-Gen. Sir Samuel Auchmuty. I believe the Admiral produced a similar paper, which was rejected.

Rear-Ad. Sir B. Hallowell. This paper, signed by Colonel A'Court, was refused upon the same ground, because there was no person who could take upon them to swear to the hand-writing. It was a paper of the same kind.

President. Was that a letter addressed to yourself, by A'Court?

Rear-Ad. Sir B. Hallowell. I received this, myself, from the Adjutant General of the army, signed by him, and it was refused admission, because there was no person here that could swear to his signature. Sir John Murray himself, was the person who objected to it.

Lieut.-Gen. Sir John Murray. You will allow me to say, that the reason why I objected to the admission of that paper, was not because there was nobody to swear to Colonel A'Court's hand-writing, but because Colonel A'Court had not arrived at the time that the siege of Tarragona was raised, and because with Colonel A'Court, and Lord William Bentinck, there arrived other troops; and that, therefore, that was not a statement of my army, but of that with other troops. I knew Colonel A'Court's signature, and, therefore, would have admitted it, if I had conceived it to be evidence at all.

Gen. Sir George Beckwith. I must say, that I do not conceive that the paper was refused on the ground now stated by Sir John Murray.

President. The Court will determine upon it now, if they think fit.

Judge Advocate. In case it should be received, General Whittingham has looked at it, and says, the translation is a correct one.

President. Then, for the present, we will place it with the others, to remain for the determination of the Court.

Lieut. Gen. Montessor. Give me leave to say, that it is the opinion of several Members at this end of the Court, that we did not understand it as Sir George Beckwith did. As far as we could collect, that paper was objected to on the part of Sir John Murray, on the ground of Colonel A'Court being the Adjutant General not till subsequent to the Embarkation, had it been suggested to either General Spencer, or myself, that any person was wanting to swear to Colonel A'Court's hand writing, we could have done it ourselves.

President. I think, that I recollect the objection coming from Sir John Murray, that Colonel A'Court was not then the Adjutant General of the Army.

Judge Advocate. The Admiral understands, it is not admitted at present, but lies for the consideration of the Court. In the mean time the translation is proved, if it should be hereafter admitted.

Rear Ad. Sir B. Hallowell. May I take this opportunity of presenting this to the Court, (Colonel A'Court's return) to lie with the other, to be received upon the same terms that the other is?

Lieut. Gen. Sir John Murray. Mr. President, I beg to object to that paper being received, as not being an accurate statement of the army under my command; Colonel A'Court did not arrive till afterwards, and consequently could not know the state of the army at that time.

Lieut. Gen. Montessor. The date of that will, perhaps, satisfy the Court.

Judge Advocate. It is dated the 17th, which is after the arrival of Lord William Bentinck. I remember I before observed, that unless we had Colonel A'Court here to state what part consisted of Sir John Murray's army, and what part came with Lord William Bentinck, it did not appear to prove any thing upon the point before the Court.

Lieut. Gen. Sir John Murray. I shall call Colonel Kenah, who was the Adjutant General at the time.

Judge Advocate. Perhaps there is no objection to its lying before the Court, if it is pressed.

President. There are Officers in the Court, who can prove the hand writing, and then, when the hand writing is proved, it will lie before the Court, to determine, whether it is evidence or not, and that will save the difficulty of clearing the Court now to determine.

Lieut. Gen. Sir John Murray. This is called, "the statement of the Allied army, commanded by Lieutenant-General Sir John Murray;" now Colonel A'Court never was Adjutant General of the army, under my command.

Lieut. Gen. Montessor. There is no person more competent to prove Colonel A'Court's signature, than General Donkin, for he was in his department.

Judge Advocate. I think it is irregular to have discussions, while witnesses are present, all which is now proposed, is to prove that this is Colonel A'Court's signature.

It was shewn to Captain Milner.

Judge Advocate. Is that Colonel A'Court's signature?

A. It is.

Captain Alexander Renton Sharpe, of the Royal Navy, sworn.

Examined by the Judge Advocate.

Judge Advocate. Is that your hand writing? (*shewing a paper to the witness.*)

A. Yes, it is, the whole.

Q. To whom was it sent?

A. To the officer commanding at Alicant.

Judge Advocate. Captain Sharpe proves this letter was his signature, and sent, as it imports, to the officer commanding at Alicant—it is dated "Hyacinth, June the 10th." Perhaps you will not think it proper to put any questions on cross-examination now to Captain Sharpe?

Rear Ad. Sir B. Hallowell. Not if I am assured that Sir John Murray will call him again.

Lieutenant General Sir John Murray. I intend to call him on my own account; but I will make a point of calling him for the purpose of Admiral Hallowell cross-examining him.

Rear Admiral Sir B. Hallowell. I wish to know whether Colonel Kenah will be called.

Judge Advocate. I think you have not a right to an answer to that question as to any persons, except those who are now called, and of whom, therefore, you suspend the cross-examination.

Lieut.-Gen. Sir John Murray. It certainly is my intention to call him.

A letter shewn to Captain Milner.

Judge Advocate. Was that received by Sir John Murray?

A. It was.

Judge Advocate. This is another paper from the Alcalde of Perello, which Captain Milner states to have been received. It is dated the 17th of June.

The paper and translation were shewn to Lieutenant General Whittingham.

Lieutenant General Whittingham. That is a faithful translation.

Another paper was shewn to Lieutenant General Whittingham.

Judge Advocate. Are you acquainted with the hand writing of Cabanes?

A. I am.

Q. Is that his hand writing?

A. I believe it is.

Q. He was Chief of the Staff of the army of Copons?

A. Yes.

Judge Advocate. Have you any evidence how this was sent?
Lieutenant General Sir J. Murray. It was brought to me by Colonel Adam, and translated, at the time, by Major Steiger. It is one of those official returns; it is very difficult to prove.

Judge Advocate. It stands at present, that it was an official report from Colonel Cabanes, whose signature is proved.

Lieutenant General Sir J. Murray. And brought to me by Colonel Adam.

Judge Advocate. Do you wish the whole to be read?

Lieutenant General Sir J. Murray. I wish to have that part read relating to the quality of the Catalonian troops.

It was shewn to General Whittingham, and he was requested to look at the part marked.

Lieutenant General Whittingham. It appears to me to be a faithful translation.

The paper was put in, dated the 14th of March, 1814.

A paper shewn to Major General Donkin.

Judge Advocate. Is that your hand writing?

A. It is a copy—but I copied it, and signed the copy and the original—the original I have.

Q. Is the original here?

A. It is in the town; but that is a copy also signed by me—it is a duplicate.

Lieut.-Gen. Sir John Murray. This is a communication made by General Donkin at the time.

Judge Advocate. The proving the signature of this will not make it evidence; but General Donkin must state further what means he had of making this communication, and of rendering it correct; it is not a return made of our own army, but a return made by General Donkin of the state of the French army; at present it merely stands, that General Donkin has proved that this is his writing.

Lieutenant General Sir John Murray. Just so; but General Donkin was at the head of the Intelligence department before my arrival, and he made out that to give me, as the estimate of the force of the enemy.

Judge Advocate. I think this should be with the other papers subject to such other proof as may be given respecting it. It is a sort of calculation made by General Donkin from the knowledge which he possessed; it is stated to be Marshal Suchet's force in Arragon and Valencia, in April and May, 1813, made out from scattered documents. I should think this paper would have come better in your examination of General Donkin. I will just ask one

question of General Denkin upon it. Was that sent by you to General Murray at the time?

A. It was given to Sir John Murray by me, in my official capacity of Quarter Master General of the army.

A paper was shown to General Whittingham.

Judge Advocate. Is that your hand writing?

A. It is.

Q. Was this delivered to Sir John Murray at or about the time?

A. It was.

Judge Advocate. This is a similar description of calculation of the force of Marshal Suchet, by General Whittingham, which was delivered by him to General Murray about the same time, it is dated Alcey, the 19th of March, 1813, that will lie in the same way, subject to the enquiry, what grounds there were for forming that calculation?

Lieut. Gen. Sir John Murray. I put it in to prove the grounds I had for forming my own calculation. This is the return alluded to in the Duke of Wellington's letter to me, dated Huarte, the 1st of July, taken in the baggage of King Joseph; the other is a statement of force evidently omitted, merely for the information of the Court.

Judge Advocate. It is a pity but your military Secretary, or some person who knows these facts, could prove them.

Captain Milner. I recollect having copied that paper when it was received from the Duke.

Judge Advocate. You do not remember its arrival from the Duke of Wellington?

A. No, I do not recollect the arrival of it precisely.

Judge Advocate. It remains for the Court to consider whether they receive it in evidence.

Lieut. Gen. Sir John Murray. I have no other way of proving any papers sent to me by the Duke of Wellington.

Judge Advocate. Sir John Murray is in the awkward situation of having no person to prove these facts, having, of course, opened his own letters.

Lieut. Gen. Sir S. Auchmuty. Is it signed by Lord Wellington?

Judge Advocate. No, it is not.

Lieut.-Gen. Sir John Murray. It is referred to in the letter of the Duke of Wellington, on the first of July, as having been sent, which letter, you read I think in your opening.

Judge Advocate. Yes; I read the letter, but the Duke did not give me a copy of that paper, I suppose His Grace had none.

President. The Duke's letter is in evidence already, referring to a statement.

Judge Advocate. That refers to a statement as sent, and Sir John Murray says this is the statement he received; I would beg to ask, whether it shall be received as positive evidence, or put among those that remain for determination.

President. I think it may be received.

Rear Admiral Sir Benjamin Hallowell. Mr. President, will you allow me to object to that paper in consequence of its being dated the 1st of July, which was after we had left Tarragona and gone to Alicant?

Lieut.-Gen. Sir John Murray. The paper itself is of the date of the 15th of May.

Rear Admiral Sir Benjamin Hallowell. You read a paper just now of the 1st of July; I am willing to admit any thing while the army remained in Catalonia, and even till the day of their embarkation, but I think I have a right to object to any thing being received after we had left Catalonia and gone to Alicant; I admit every thing even to the time that we were at Ballaguer, and I think that is as great latitude as can be expected.

Judge Advocate. Of course Sir John Murray cannot contend, that he acted upon this as he received it afterwards?

President. I suppose it is to shew the state of the enemy at that period.

Rear Admiral Sir Benjamin Hallowell. As his actions could not be regulated by that, I do not see how it can be evidence.

Lieut. Gen Sir John Murray. I merely bring it as a confirmation of the accuracy of my calculation of the French Force; I could not act upon that, because I had not received it.

Judge Advocate. This other paper is alluded to in your address, Sir John Murray.

Lieut.-Gen. Sir John Murray. Yes; it is a copy of that I sent to the Duke of Wellington, in answer to his statement sent to me.

Judge Advocate. I have stated, that it is left for consideration.

Lieut.-Gen. Sir Samuel Auchmuty. It should be stated that the Admiral objects to it upon the ground of its being received afterwards.

Rear Ad. Sir B. Hallowell. If it was received while we were in Catalonia, I will not object to it.

Judge Advocate. That is impossible ; it is enclosed in a letter of the 1st of July, therefore, it must have been received two or three months afterwards.

Lieut.-Gen. Sir John Murray. I believe it was received about a month afterwards, but I produce it as a confirmation of my calculation ; I have referred to the report of two deserters ; this paper was sent to me, or given to me, by Admiral Hallowell himself, I believe it to be in the hand-writing of Colonel Catanelli, but I am not sure of that. (*It was shewn to Admiral Hallowell.*)

Rear Ad. Sir B. Hallowell. I believe I have seen this paper, and I believe I delivered it to Sir John Murray.

Judge Advocate. It is indorsed, as received the 16th or 17th of June.

Rear Ad. Sir B. Hallowell. The examination of this man was on the 16th ; I cannot exactly say when I sent it to General Murray ; I may have given it to him the same day or the next, but I acknowledge to have given it to him, and I dare say I gave it to him the same day.

Judge Advocate. Colonel D' Aguilar is proposed as a witness to prove a hand-writing ; he has been in the room, I do not know whether any objection can be felt to that ?

Lieut.-Gen. Sir S. Auchmuty. I should think there can be no objection to his being asked merely to the proof of a signature,

Lieut.-Colonel George D' Aguilar, sworn.

Judge Advocate. Do you believe that to be the signature of Colonel Adam ? (*shewing a paper to the witness.*)

A. I do.

Lieut.-Gen. Sir John Murray. That was a paper forwarded to me officially by Colonel Adam, it is dated the 15th or 16th of June.

Judge Advocate. There is no date upon it, but your own indorsement.

Lieut.-Gen. Sir John Murray. No, there is not, but it was sent in immediately.

Judge Advocate. It is indorsed " Report of Deserters 15th or 16th of June," but the paper itself has no date.

A paper was shewn to Lieut.-Gen. Whittingham.

Judge Advocate. Is that the hand-writing of Colonel Cabanes, the chief of the staff ?

A. It is.

Judge Advocate. This is a Spanish return of the strength of the French army in Catalonia ; General Murray states it was one of the papers sent to him officially at the time.

Lieut.-Gen. Sir John Murray. It is the most correct statement I ever had of the Catalonian French Army.

Judge Advocate. The statement purports to be the state of the force on the 15th of April, but the signature of Colonel Cabaues is the 7th of May.

Lieut.-Gen. Sir John Murray. This is the best means I had of getting any information on the subject.

Judge Advocate. Can you prove at what time you received it?

Lieut.-Gen. Sir John Murray. It was brought by Colonel Thackeray, upon his return, I think about the middle of May, it was to give me information of the state of the French army.

Judge Advocate. Can Colonel Thackeray prove its contents?

Lieut.-Gen. Sir John Murray. No, I believe it was under cover.

Judge Advocate. There is a paper put into my hand, signed by Mr. Tupper, a communication respecting the state of the Duque del Parque's army; he is not a military officer, and it is not a report appearing regularly to come through him?

Lieut.-Gen. Sir John Murray. He was Consul General, and a Member of the Junta of Valencia, and had the distribution of all the supplies, which Sir Henry Wellesley directed. This is to prove the inefficient state of the army of Valencia.

Rear Admiral Sir Benjamin Hallowell. What is the date of it?

Judge Advocate. The 7th of July.

Rear Admiral Sir Benjamin Hallowell. If it is a return by Mr. Tupper of the military force of the enemy, I beg to object to it.

Judge Advocate. I understand it is to give an account of the inefficient state of the army of Valencia left behind.

Rear Adm. Sir Ben. Hallowell. But that has nothing to do with the charge which terminated on our leaving Catalonia.

President. The Court at all events will not receive it without consideration, but merely put it among the papers subject to the consideration of the Court.

Rear Admiral Sir Benjamin Hallowell. I only wish to have it noted that I object to it.

Lieut.-Gen. Sir John Murray. Certainly it is dated after the time, but it is in direct reference to the period

when the operations in Catalonia were going on, and merely as to the supplies and the state of equipment of that army.

Judge Advocate. Perhaps you may think it worth while to offer some evidence as to what Mr. Tupper's situation was, as to his being one of the Junta, and being connected with this army; at present it stands only as objected to by Admiral Hallowell, as being after the time, and concerning other forces; General Murray offers it to shew the state of the Spanish army in Valencia, at the time; that remains for discussion, it is not at present received.

Lieut.-Gen. Sir John Murray. This paper, I put in merely for the convenience of the Court; it is the disposition of the Spanish army.

Judge Advocate. This paper is offered to the Court, signed by Colonel Cabanes, of the disposition of the Spanish army under General Copons, on the 11th of June; I would observe to the Court, that I have in my possession, General Copons' official account of the disposition of the army, at the same time, which I could equally prove by his hand writing. I mean to put it into the hand of General Whittingham: that was sent to the Duke of Wellington, by General Copons, and therefore it appears to me still more regular evidence than the statement of Colonel Cabanes.

Lieut.-Gen. Montessor. I think they are both regular.

Judge Advocate. I think the putting in this opens to me the putting in General Copons' statement.

Lieut.-Gen. Sir John Murray. That is the ground upon which I acted.

Lieut.-Gen. Montessor. General Murray must be regulated by that which he received.

President. If we admit these papers only on the strict proof which Courts of law require, we shall have no evidence at all; returns must be admitted on this sort of proof.

It was shewn to General Whittingham.

Judge Advocate. Is that the hand writing of Colonel Cabanes?

A. It is.

Judge Advocate. It is dated Reus, the 10th of June, you do not prove when you received it, which you should to prove you were influenced by it.

Lieut.-Gen. Sir John Murray. If it was dated the 10th, and given to me as the disposition of the 11th, I had it on or before the 11th.

Judge Advocate. But there was no proof that it was received by you at all.

Rear Ad. Sir B. Hallowell. May I beg to ask what that paper is?

Judge Advocate. It is the disposition of the troops at nine in the morning.

Rear Ad. Sir B. Hallowell. Of the Spanish troops?

Judge Advocate. Yes, it is the disposition for the next morning, of course.

Lieut.-Gen. Sir John Murray. Certainly.

Judge Advocate. It does not appear that it was the proposed position the troops were to take the next morning; but it is the disposition the troops will take at nine in the morning, and it is dated the 10th.

President. Then it must be the position for the 11th, certainly.

Lieut.-Gen. Sir J. Murray. I only want to shew the troops with us.

Rear Ad. Sir B. Hallowell. May I ask by whom that paper is signed?

Judge Advocate. By Colonel Cabanes; the other paper you understand has not been proved, that containing the numbers.

Lieut.-Gen. Sir John Murray. The return I am going to present, contains the whole force in every part of the country, in the most complete state in which I am in possession of it.

The Paper was shewn to Lieutenant-General Whittingham.

Lieutenant-General Whittingham. This is the signature of Colonel Cabanes.

Judge Advocate. This is a return of the state of the first Spanish army, and its effective and disposable force, on the day it bears date, "Vick, the 7th of May, 1813."

Lieut.-Gen. Sir John Murray. There are two columns of the disposable, and the not disposable, I calculated always on the disposable, the Court understand the other paper delivered in is an extract of certain parts from that paper.

General Sir George Beckwith. It is to shew the strength of the corps marked in the former document.

Judge Advocate. Do you offer any evidence when you received this?

Lieut.-Gen. Sir John Murray. I received it about the 14th of May, I cannot give any proof when it was received.

A Paper was shewn to Captain Milner.

Judge Advocate. Are you acquainted with the handwriting of Lord William Bentinck?

A. I am.

Q. Is that his hand-writing?

A. It is.

Judge Advocate. This is a letter from Lord William Bentinck; there is no address, but it commences, "My Dear Sir John," it is dated, "Palermo, May the 9th, 1813." It is understood, that all the witnesses who are now leaving the room are to be called again, and to be then subjected to cross-examination.

Rear Ad. Sir B. Hallowell. It is upon that condition that I suspend my cross-examination.

Lieut.-Gen. Sir John Murray. This is a letter sent by me, to Sir Edward Pellew, it was given to Admiral Hallowell on the day it bears date, and, I believe, the ship sailed immediately.

Judge Advocate. The letter bears date, "Camp before Tarragona, June the 14th, 1813;" strictly in a Court of Justice, this would not be received, but there must be allowance made for circumstances; there should be notice given to Sir Edward Pellew to produce the originals, and if they are not produced, then the copies become evidence.

Rear Admiral Sir Benjamin Hallowell. I have offered to the Court, copies of both of those letters of the 2d and the 4th of June, sent to me by Sir Edward Pellew, attested with his name; these are the two papers, (*handing them in.*)

Lieut.-Gen. Sir John Murray. I beg to know, Mr. President, whether papers are to be admitted after the Case of the Prosecution is closed?

Rear Ad. Sir B. Hallowell. I do it only to assist your Case; you put in papers which do not appear to be correct proof, and I, therefore, put in the copies sent to me, attested by Sir Edward Pellew.

Lieut.-Gen. Sir John Murray. I have no copy of the letter of the 2d of June at all, if you will allow me to look at it?

It was handed to Sir John Murray.

Lieut.-Gen. Sir John Murray. That is a copy of my letter.

Judge Advocate. Are these to be put in as your evidence?

Lieut.-Gen. Sir John Murray. I have no copy of the letter of the 2d of June.

Rear Ad. Sir B. Hallowell. I will give it in, and will allow Sir John Murray to make use of it.

Lieut.-Gen. Sir John Murray. I am very much obliged to you, I am sure.

The Letters were put in.

Judge Advocate. Admiral Hallowell, I am desired, by Sir John Murray, to ask you, whether that is Sir Edward Pellew's hand-writing? (*shewing a paper to Admiral Hallowell*).

Rear Ad. Sir B. Hallowell. Yes, it is.

Judge Advocate. This is a letter dated His Majesty's ship Caledonia, at sea, 8th of June, addressed to Lieut.-General Sir John Murray. Sir John Murray now puts in papers, which were put into the hand of Colonel Williamson, and proved by him on his examination. They are numbered 3, 4, 5, 6, 7, and 8.

Captain Druitt sworn.

Examined by the Judge Advocate.

Q. Is that the hand-writing of Captain Molloy?

A. It is.

Q. What was he?

A. Assistant Adjutant-General.

Judge Advocate. This purports to be a return of the camp-kettles and mules on the 4th of June, 1813; but, it appears to be dated several months afterwards.

Lieut.-Gen. Sir John Murray. Yes, I was obliged to write to General Clinton, to request returns to be sent to me, of the state of the army at that time.

Judge Advocate. This does not appear to be a return made by Captain Molloy at the time, but a copy made afterwards.

Lieut.-Gen. Sir John Murray. It was taken from the books; I applied for that when preparing for this trial.

Judge Advocate. The other papers are received as being signed by proper officers, and delivered at the period; but this is not in these circumstances, this appears to have been a copy taken afterwards by the proper officer, and dated seven or eight months afterwards; the Court ought to have him here to explain that circumstance. The Court do not know from what book this is taken?

Lieut.-Gen. Sir Charles Green. It is dated "Adjutant General's Office."

Judge Advocate. No, it is dated in February, 1814, and purports to be a report of the camp-kettles and mules on the 4th of June, 1813; I am not aware that it is material,

but I think it proper to state to the Court, the objection to it.

Lieut.-Gen. Sir John Murray. It was the only way I could possibly get that return, having left the army.

Judge Advocate. Am I to state, that it is objected to, Admiral Hallowell? It does not purport of what army, but is signed by Captain Molloy.

Rear-Admiral Sir Benjamin Hallowell. As far as it relates to me, I have no objection to it; it is the statement of what was there on the 4th of June.

Judge Advocate. The other papers also, may be liable to objection; for all that Colonel Williamson proves, as to them, is, that they were Captain Molloy's hand-writing.

Lieut.-Gen. Sir John Murray. I had no means of getting any other returns, under the circumstances under which I was placed. Captain Molloy (who is proved to have been in the Adjutant-General's Office), states them to be his return.

General Sir George Beckwith. Was he in the Adjutant-General's Office in London?

Lieut.-Gen. Sir John Murray. No; in Spain.

Judge Advocate. It was, I suppose, Captain Molloy's business, to make these returns; he sent them eight months afterwards; this is not a return made in the course of military duty at the time, but made afterwards; it is not proved to have been taken from the books.

Lieut.-Gen. Sir Charles Green. Is there no official letter, stating from whence it was taken?

Lieut.-Gen. Sir John Murray. There was an official letter, with a great number of returns, as well as that.

President. Had not you an official letter, containing them?

Lieut.-Gen. Sir John Murray. I had a letter containing them; but, it is clear to what army this related, for there are the names of the regiments serving with that army.

Judge Advocate. I think it must be suspended for the present.

President. Certainly; there is no objection raised to it by the Admiral, but it is necessary to consider it.

Rear Admiral Sir Benjamin Hallowell. I make no objection to it; and to save any trouble, I shall make no objection to any paper given in before the 19th of June.

Judge Advocate. I can assure Sir John Murray, that it is not with a view to make trifling objections, but I have

several papers which I declined to put in, which stand on better evidence than this.

Colonel Thomas Kénah sworn.

Examined by the Judge Advocate.

Q. You were Assistant-Adjutant-General to Sir John Murray's army, on the 4th of June, 1813 ?

A. I was.

Q. This was an official return made by you at the time ?
(*shewing a paper to the witness.*)

A. Yes.

Q. And delivered in to Sir John Murray ?

A. Yes.

The return was put in.

Lieut. Gen. Sir John Murray. Mr. President, this is a letter from the Duke of Wellington, a part of which I should wish to be received as evidence ; it contains much matter totally irrelevant to the present subject, and which I believe it would not be quite correct to make public ; I could wish, therefore, to submit to you, whether the Judge Advocate may read some extracts which I have prepared, which Mr. Larpent has seen.

Judge Advocate. There are parts of this letter which are of a private nature ; I have looked at the letter, and certainly think it would be improper to produce those parts. I mention this, because, generally speaking, when one party produces a letter, the other side have a right to the inspection of it.

Lieut. Gen. Sir John Murray. That, I believe, is where the Court think the production of it would not be prejudicial. I believe I may ask you, Mr. Larpent, as to the signature of the Duke of Wellington ?

Judge Advocate. It is the signature of the Duke of Wellington, I know.

Rear Ad. Sir B. Hallowell. May I beg to ask the date of it ?

Judge Advocate. It is dated the 23d of May, 1813 ; I have looked over the extract, and it is a correct transcript of that part of the letter.

Lieut. Gen. Montessor. It will be necessary for you to prove the hand-writing ?

Judge Advocate. Yes, I know the hand-writing ; strictly I should be sworn to that, perhaps.

Francis Seymour Larpent, Esq. sworn.

President. Is that the hand writing of the Duke of Wellington ?

A. It is ; I have compared this extract with the original, and it appears to be correct.

The extract was put in.

Judge Advocate. The other paper put in, was an extract from a letter written by Sir John Murray himself to the Duke of Wellington, which led to that answer that is taken from Sir John Murray's letter book.

President. Your military secretary is here to prove that, I suppose ?

Lieut. Gen. Sir John Murray. It is Captain Milner's hand writing.

Captain Milner was sent for, but his immediate attendance could not be procured.

Lieut. Gen. Sir John Murray. Col. D'Aguilar could prove that that was my letter book, though he did not make that particular entry.

Judge Advocate. The person who entered it would give the best evidence, certainly ; can you proceed with any thing else till Captain Milner comes ?

Lieut. Gen. Sir John Murray. This is a letter from the Duke of York, after the battle of Castalla, which nothing, but the present circumstances, should have induced me to produce. The other is a letter from Lord Bathurst on the same occasion.

Several members of the Court spoke to the signatures of the Duke of York, and of Earl Bathurst.

The two letters, the one addressed to Sir John Murray, by Earl Bathurst, dated May 20, 1813, the other by his Royal Highness the Duke of York, dated May 22d, 1813, were put in.

Judge Advocate. The documentary Evidence is now complete, except a letter which has just been put in, and which is to be proved by Captain Milner. As it wants now only a quarter of three, I would submit to the Court, whether they would go into parol evidence to-day, or would close the Court to consider of the papers which have been put in.

Rear Ad. Sir B. Hallowell. I wish to know, if all these papers are admitted as evidence, whether I shall be allowed the examination of them ?

Judge Advocate. They must be all read when they are admitted as evidence.

Rear Admiral Sir B. Hallowell. May I be permitted now to put in a letter of Sir John Murray's, in answer to that letter of the 9th, which he has put in ?

Lieut. Gen. Sir John Murray. I must beg leave to ask the decision of the Court, how far my Prosecutor, after he has

finished his charges against me, 'is at liberty to produce additional evidence?

Judge Advocate. I conceive the line in a Court Martial, as well as every other Court, is, that he cannot go into any evidence which is new to the Case, but if any evidence is brought, attacking his witnesses, or any thing of that kind, he is at liberty to confirm, or explain, that which is attacked.

Rear Ad. Sir B. Hallowell. It is exactly in the situation I stand; Sir John Murray has produced my letter, and I wish to produce his letter to me in reply to that.

President. You will probably produce it in your reply.

Lieut. Gen. Montessor. Then the prisoner will have no opportunity of explaining it.

Judge Advocate. If it is done it should be before the reply, and then, if the officer on trial wishes to make any observations, in consequence, he has an opportunity of doing it; there is a case of this sort put in one of the books. If an officer proves that a soldier was guilty of mutiny, that is his proof in the first instance; if the prisoner proves in his defence, that it was in consequence of the violence of other soldiers, then the Prosecutor may call evidence to prove, that it was not so, but that it was from his own will that he did what he did.

President. I should suppose that this letter may be received, and that Sir John Murray may, if he pleases, make observations upon it.

Gen. Harris. The time will be when Sir John Murray's letter is read, I should suppose.

Judge Advocate. Will the Admiral state on what ground this is now put in, which it could not be before?

Rear Ad. Sir B. Hallowell. My letter of the 9th has only been put into my hand to day, and this is the answer to it.

Judge Advocate. Then it seems to come within the rule.

Lieut. Gen. Sir John Murray. This is a letter, which, if it criminales me, the Admiral might have produced in the course of the prosecution. All my evidence of to-day is new, so that, on that ground, it equally opens the door to evidence in reply.

Rear Ad. Sir B. Hallowell. I suppose I have a right to cross-examine any new witness Sir John Murray brings before the Court, and this is brought as evidence against me, and this is the answer in his own words. I do not wish to urge any thing contrary to the opinion of the Court.

President. Sir John Murray seems to object to it, more

upon the principle than upon the letter itself ; the principle of introducing any thing after having closed the prosecution ; that I understand to be his objection : whether that objection is thought well founded by the Court or not, I think it will be best for the Court to take into their consideration.

Rear Admiral Sir Benjamin Hallowell. Mr. President, I feel there have been such heavy charges laid against me in the Defence of Sir John Murray, that I think every Member of this Court, placing himself in my situation, would feel his honour attacked most seriously, and that he was exceedingly injured if he was not allowed to go into a defence of it. I was not prepared for such an attack, and, when the time comes, I hope I may be examined, that I may, upon my oath, declare every thing, and that Sir John Murray may be allowed to cross-question me in the most severe manner he pleases.

Lieutenant General Montrossor. I should doubt how far the Court is at liberty to go into the defence of the Admiral.

Judge Advocate. It appears to me, that if the Court go into evidence as to many points stated in that speech, they will be open to the difficulty of Admiral Hallowell being at liberty to answer it in evidence ; but it appears to me that there are many parts which ought not to be received in evidence ; the statements of Prosecutors, and of persons in their defence, are generally very loose, any thing gone into in evidence should be answered by evidence, and that which is merely in statement, may be answered in statement.

Lieutenant General Sir Samuel Auchmuty. There are many papers which are put aside, and we do not know whether they are to be admitted or not ; I think the Admiral has not any thing to say to those letters until they are admitted in evidence.

Rear Admiral Sir Benjamin Hallowell. I wish only to put this letter on the table to be received with the other, if it is received.

Lieut.-Gen. Sir John Murray. Mr. President, I should suppose, when the Court has decided whether the letter from Admiral Hallowell shall be received as evidence, there will be the time for the Admiral to offer this letter.

Judge Advocate. Strictly, I think Sir Benjamin Hallowell is not at liberty to offer any evidence, until the Defence is gone through, and then it will be for him to shew what parts of the Case, proved in defence, have given rise to new evidence ; and if new evidence is admitted, then it will be for Sir John Murray to observe upon that new

evidence produced, and then Admiral Hallowell will have a right to reply. The only new evidence which can be given by Admiral Hallowell must be that which he could not have given in his original Case.

President. As it is now 3 o'clock, we must proceed with the evidence of Captain Milner, proving this letter, on Monday morning, as he is not here.

Adjourned to Monday morning 10 o'clock.

NINTH DAY.

Monday, 30th January, 1815.

The Court met pursuant to Adjournment.

Rear Ad. Sir B. Hallowell. Mr. President, when the statement of the force, that was landed under Sir John Murray was laid before the Court, I had not the means of producing an accurate statement of them. I have sent since to the Transport Board, and here is the statement of every man actually embarked on board the Men of War. It may do to compare with the other, and to shew its correctness.

Judge Advocate. I would beg to mention, that independently of the question, whether this should be received at all, this is not the regular time, unless you wish to prove this statement, on the cross-examination of any witness to be called by Sir John Murray.

Rear Ad. Sir B. Hallowell. That is exactly what I wish; I delivered in a statement by Colonel A'Court of the numbers; this is a return I have sent to London for, which will shew the number of men actually victualled.

Lieut.-Gen. Sir John Murray. Mr. President, in reference to that paper, which Admiral Hallowell has laid upon the table, I have exactly a similar paper signed by Colonel A'Court, likewise on the 17th of June, but not conceiving it evidence, I did not offer it in evidence; if I had, I should have had the advantage of 300 rank and file fit for service. Colonel A'Court states the number to be 12,581 fit for duty; whereas, according to the statement I laid upon the table, it appears that there were fit for duty, on the 4th of June, 12,800, so that if I had chused to profit by irregular evidence I should have had a smaller number.

Rear Ad. Sir B. Hallowell. I believe the number according to mine was 14,000.

Lieut.-Gen. Sir John Murray. I mean Infantry; if you compare them, you will find them to be the same, I believe.

Rear Ad. Sir B. Hallowell. Mine is before the Court.

President. Am I to understand, Sir John Murray, that you object to that paper, put in by Admiral Hallowell, or admit it as evidence.

Lieut.-Gen. Sir John Murray. I object to it, not on the ground of any thing which it contains, or of Colonel A'Court's signature not being verified, but on the ground of its being a return, made by an Officer who was not with the army at the time of the raising of the Siege.

President. I apprehend there can be no objection to the Admiral placing this paper on the table with the others, for the future determination of the Court; the Admiral has considered this as more authentic, but there was a difficulty, it was supposed, in proving the signature of Colonel A'Court. I would submit to you, Mr. Judge Advocate, whether there is any impropriety in our receiving that paper in the Admiral's hand, and placing it with the others subject to the future determination of the Court, whether it shall be admitted as a paper on our proceedings, or not.

Judge Advocate. The only point is, that it is not the Admiral's time to produce any papers whatever; he is not now in a situation to produce any thing. General Murray is in his Case at present.

Rear Ad. Sir B. Hallowell. I believe it must be in the recollection of the Court, that the paper signed by Colonel A'Court, I offered in the proper time, and it was rejected then.

Judge Advocate. The proper way would be to present it to any witness on cross examination, to authenticate it, and then to produce it when Sir John Murray's Case is over.

President. The Judge Advocate is of opinion this is not the precise time at which you should present it, but that does not preclude you from presenting it at a future time.

Judge Advocate. When Sir John Murray's Case is over, it will then be for you to offer any paper in evidence, and then the Court will decide upon it.

Rear Ad. Sir B. Hallowell. Very good.

Judge Advocate. I propose now to read those papers which are admitted without any objection; and then to propose to the Court, to take into consideration any others to which there is objection. The first paper, which I believe was admitted to be properly proved, was an extract from a memorial of Cabanes, which was proved to be in his hand writing; the part I am going to read, was proved by General Whittingham, he looked it over, and stated that the translation was correct, it relates to the quality of the troops of the first army, it is dated "Head quarters, Vick, 14th of March, 1813.

It was read as follows.

"Quality of the troops of the 1st army.

"It cannot be denied that in general the troops composing the first army, are brave, and that among its Commanders, and Officers, there are several of the most gallant conduct, and of great knowledge; however, to speak the truth, we must confess also that on account of the disasters they met with in Catalonia, the species of warfare which is made in that Province, and the continual movements in which these Troops have been, they are in want of that subordination and discipline so indispensable in every military operation, and the general cause of all victories.

"There is no doubt, but that the individual bravery which is perceived among the majority of its individuals, and their particular fitness for executing rapid movements, and supporting great fatigues, are the cause that the want of the above two circumstances is not so much felt, especially in a Country where the war is generally carried on in the Mountains, and consequently by small and separate corps.

"Notwithstanding, it must be confessed, first, that the Infantry is not so well instructed in the science of manœuvres, and in the operations of a siege. Second, that the Cavalry though full of enthusiasm, has not sufficient instruction for being as useful as it might be. Third, that the artillery though under the direction of Officers, who have always preserved the former splendour of that corps, want the means of serving with effect, and of rendering itself terrible to the enemy. Fourth, that the corps of Sappers is nearly in its cradle. Fifthly, finally, that this army has no magazines nor transports, nor clothing, and, that often they are also in want of ammunition.

"Considering the whole, we must however agree, that the actual disposition will have the effect of changing the aspect of that army, and will soon transform it into a regular constituted and organized corps of troops."

Lieut.-Gen. Sir John Murray. There is another extract in that paper which I have marked.

Judge Advocate. That is the only passage the translation of which is proved; when General Whittingham comes, he may look at the extract. The next to be read, is the first of those papers of information proved by Captain Milner, as having been sent in to General Murray.

It was read as follows.

[TRANSLATION.]

SENNOR DON JOSE,

I received your letter, and besides the intelligence obtained last night, a relation of mine has arrived from Tor-

tosa, who informs me that it was reported there, that 7000 French would arrive either to-day, or to-morrow, at that place; and that by to-morrow 2000 horses, (animals,) for the conveyance of baggage, &c. would be put in requisition; boats have been laid down at Amperta, according to the reports of the country people.

I have sent another peasant this day to Tortosa, and should any thing take place, I will immediately inform you.

Command all the services of your faithful servant,
(Signed) JOSE LLAS BAILET.

Judge Advocate. The Court observe, this is one of the papers put in by Sir John Murray, to shew that this information was sent him, but that it was false.

Lieutenant-General Whittingham again called in.

Judge Advocate. I will now read the second extract from Colonel Cabanes' Memoir, if the General will look at the original?

The following extract was read.

"Enemies which the First Army has in its front.

"The troops of the French army in Catalonia may be considered under two different aspects, those that are destined for active service in the field, and those that form the garrison of the different fortresses which they have in Catalonia. Generally speaking, the first are employed every where throughout the province, whereas, the latter seldom, if ever, absent themselves for more than a day from their respective garrisons. It is true, that it happens sometime, that for some important expedition, they leave certain points, only with a garrison which is absolutely necessary, and the other troops are destined to augment the corps of operations. These last corps may be estimated on the following mode:

<i>Corps.</i>	<i>Destination.</i>	<i>Infan.</i>	<i>Cav.</i>	<i>Artillery.</i>
Division of Lamarque	Gerona.	4854	390	4 pieces
Brigade Le Fevre	Barcelona.	3100	230	3 pieces

The garrison troops amount to the following numbers:

<i>Fortresses.</i>	<i>Governors.</i>	<i>Infantry.</i>	<i>Cavalry.</i>
Barcelona.	Matthieu.	3000	50
Gerona.	.....	1000	50
Figueras.	.....	700	10
Rosas.	.....	900	6
Hostabrich.	.....	250	—
Tarragona.	Bartoletti.	1000	30
Tortosa.	.....	600	60
Lerida.	Henriot.	1000	150
Coll de Ballaguer.	.....	100	—

<i>Fortified Points.</i>		<i>Infantry.</i>	<i>Cavalry.</i>
Pingeerda.	Queonel.	4250	150
Olot.	Lamarque.	600	
Besalu.	}	1200	
Bañoles.			
Moncada.			
Molins del Rey, and other Villages,			
Palamos.		300	10
Mataro.		300	

"The whole form a total of 23,611 men, and 1194 cavalry, which is a force greatly superior to the first Spanish army. It is true that this force is greatly diminished by its having such an infinity of objects to attend to, and this is the reason why the greatest force the French can bring into the field is not more than 13,000 men."

Judge Advocate. Is the translation correct?

A. It is.

Lieut. Gen. Sir John Murray. I have a letter to which I wish to prove General Copons' signature, which I will do by General Whittingham.

The paper was given to General Whittingham, and he was requested to compare the translation.

Judge Advocate. The next is a letter from Colonel Prevost, addressed to Lieutenant-General Sir John Murray.

It was read as follows.

*Heights, Coll de Ballaguer,
June 5, 1813.*

SIR,

In the extreme hurry that I was in yesterday evening, I was unable to write to you; but I dispatched Captain Zehnpenning to explain to you the situation of the division under my command, both as to the want of materials and men, for carrying on the attack upon the Fort of St. Philippe; as also respecting the critical state I should find myself placed in, in the event of Marshal Suchet's approach, which I have no doubt will take place in the course of to-morrow. Should he advance rapidly, the loss of the five 24-pounders will, I fear, be inevitable.

I had flattered myself with the hope with being able to open the breaching battery this morning; but, notwithstanding the incessant labour of the troops and sailors,

it was found impossible to drag the guns into the battery that was constructed during the night.

This day the troops are employed in making a road to it, and I hope, in the course of this night to get them up, when we shall commence our fire.

The ground at the Coll de Ballaguer is very unfavourable to our operations, and the fort much stronger than was expected. It will require twice the number of men there are with me at present to reduce it. I beg to report that we are in the greatest want of artillerymen, and the greater part of the 6-pounder ammunition, (particularly spherical,) is expended.

We have hitherto met with little loss in proportion to the fire that has been kept up by the enemy; a return of killed and wounded shall be transmitted to you by the next opportunity.

I have the honour to be,

Sir,

(Signed) W. PREVOST, Lieut.-Col.

Lieut.-Gen. Sir John Murray. I submit that to the Court, to shew the reports which were in circulation even so early as that, of Marshal Suchet's advance.

Judge Advocate. The next which is proved, is a letter of General Whittingham's to Sir John Murray.

It was read as follows.

[Intelligence.]

8th June, 1813, 7½ p. m.

SIR,

I have the honour to transmit you a report I have this moment received from the officer I have stationed at Villa Franca.

Villa Franca, 8th June, 1813.

The Governor of this town has communicated to me the report which he received at one o'clock last night, from the late Governor of Gerona now residing at Arens de Mar, dated 3 o'clock, p. m. 7 June.

"The enemy in force from 4 to 5000 men have put themselves in motion, from Mausanet de la Selva, and direct their march through Hostabrich and San Celoni, and it is understood their object is to throw obstacles in the way of the siege of Tarragona. It would, therefore, I conceive, be highly important not to let them pass."

My officer continues:

"I shall therefore remain in this town, till I ascertained whether their point of re-union is Barcelona, or what direction they may take. Two regiments of the division of Baron

Eroles have marched from this place this morning, with direction towards Tarragona.

There remains at present in this town only the squadron of Cuirassiers, 150 strong.

I have the honour to be,

Sir,

Your most obedient servant,

(Signed) SANDFORD WHITTINGHAM.

Lieut.-Gen. Sir John Murray, Bart.

Judge Advocate. The next is a letter from Mr. Tupper, the Consul merely giving a report. There were two offered it will be recollected.

It was read as follows:

[Intelligence.]

"Castalla, 8th June, 1813.

SIR,—I have the honor to inform you, that the following advices reached me yesterday evening.

"Valencia, 5th June, 1813.

"The cuirassiers and dragoons have gone towards Castellon de la Buna. Some infantry has united at Segorbe and proceeded towards Arragon. The enemy has weakened his force, watching Buñol and Requina, part of which has taken the road to Castellon. This morning two regiments have passed through Picasente, and have also taken their road to Cataluña.

"Suchet has had a long conference with the Municipality, for the immediate payment of the contributions still due. It is said the French mean to burn the harvest, if they have not time to carry it off with them. I am assured Suchet leaves this city to-morrow afternoon (the 6th) for Tortosa.

"Silla, 6 in the morning.

"All last night a great number of sheep and oxen have passed this way from Alzira; this morning 3 guns, 1 howitzer, and 6 ammunition waggons, have come from Alzira, and in haste have gone in to Valencia.

"Alberique, 7 in the morning.

"I am just returned from Valencia, and yesterday I met the 121st regiment at the Tonne Espioca, marching from Valencia. Two companies of miners and sappers have arrived here from St. Philippe. We calculate the force remaining on the right bank of the Xucar at about 5000 men.

"Thus far the information sent by my agents at Valencia; and this morning, two of our men have come in from

Onteniente, and confirm the report, that all the baggage has moved towards St. Philippe.

"I have now to observe to your Excellency, that I think it very likely that Suchet will retreat with his army upon Arragon, and only leave a strong garrison in Tortosa. The next advices from Valencia will decide this point, and I trust my agents in said city will be able to keep up a communication with your Excellency.

"I have provided the Duque del Parque with provision until the 25th instant, and from the various conversations I have had with him, I am inclined to believe the army will move on the 10th instant.

"I have the honor to remain, Sir,

"Your most obedient humble servant,

"(Signed) P. C. TUPPER."

Lieutenant General Whittingham again called in.

Lieutenant General Whittingham. This appears to me a faithful translation of the original.

Judge Advocate. Is that General Copons' signature to the original?

A. It is.

Judge Advocate. I will proceed in reading the rest as given in, and that will come in its regular order. The next is a letter from Sir Benjamin Hallowell to General Murray.

It was read as follows:

[Intelligence.] "4 A. M. 9th June, 1813.

"MY DEAR SIR,—I received a letter in the night from Captain Adam, inclosing one for you, which I now send, with another he had just received from Captain Peyton, of the Thames, who is lying at anchor off Ampulla.

"In Captain Adam's letter to me, he says a confidential person had been sent to Tortosa from Perello; that he was taken to the governor to give him news of the Coll de Ballaguer, and was asked many questions.

"The governor then told him that 2000 men were arrived (and in fact they are arrived) and that yesterday, (the 8th) or to day, Suchet would come up with 6000 more.

"Peyton's report about the French cavalry being at Ampulla, he says, 'is only from the peasantry, but circumstantial.'

"I must send another gun-boat to Adam immediately, to assist in covering the road to Ballaguer.

"I remain, my dear Sir,

"Your's sincerely,

"(Signed) B. HALLOWELL.

"*Lieut. Gen. Sir J. Murray, Bart.*

"Rations for 2000 men have been ordered at Perello."

Judge Advocate. This is a letter from Captain Sharpe, directed to the Officer commanding at Alicant.

It was read as follows :

H. M. ship Hyacinth, off Murviedro,

10th June, 1813.

[Intelligence.]

SIR,—By information this day received, it appears, that since the evening of the 6th, the French troops have been on the march towards Catalonia, taking with them many guns, waggons, and cattle, of every description. On the 8th, at 2 o'clock, the troops left Castelleone, and at 10, on that night, Suchet left that place, with about 500 cavalry.

The number of French troops is altogether estimated at 10,000, which have left this province; and the peasants say there are not more than 5000 remaining in the different garrisons. The above intelligence I have from so many different persons, all of whom agree in their statements, that I look upon it as perfectly worthy credit. The smuggling vessels lying off this place saw the troops and carriages pass along the road; the passage at Oropesa might easily have been stopped by two ships; but when on Saturday, the 5th, I took the anchorage for that purpose, a strong southerly breeze obliged me to weigh, and next day I was drawn off in chase of a Scampavia.

Nebot is at present close to Almanusa, but complains that he cannot arm half his people.

I think at this moment it would be of infinite service, if there are any spare arms at Alicant, to send a few hundred stands and some ammunition here.

There are 3 or 4 privateers now in Valencia, and one of 2 guns at Denia, which, within these few days, has taken into Denia a brig and 2 settees.

I am, Sir,

Your most obedient Servant,

(Signed) A. R. SHARPE.

To the Officer commanding at Alicant.

Judge Advocate. The next is another paper from the Alcalde of Perello, proved in the same manner.

It was read as follows.

Perello 10th June, 1813.

SR COMMANDANTE,

This morning, thanks to God, we were permitted to return from Tortosa; when we arrived there we were brought before the General and Governor, and requested to say the truth if the Coll de Ballaguer was taken or not. We said it was, they afterwards asked us about Tarragona; we an-

swered that there was a good deal of firing, and that we knew nothing else, after which we were immediately set at liberty.

The French who came to this place were 1500, and about 500 remained in Tortosa, and if we had not been found in our village it would have been plundered.

The Governor of Tortosa told us that Suchet would be there to day, or to-morrow, that's all have to say.

JOSE LLAS BAILET.

Judge Advocate. The next is a letter of Colonel Prevost's, addressed to Sir John Murray.

It was read as follows.

[Intelligence.]

Invincible, 10th June, 1813, 2 o'clock, P.M.

MY DEAR SIR,

I sent a patrol to Perello this morning, and am happy to inform you that the Alcalde and Aguatamiento returned from Tortosa in the course of the night. You will perceive by the enclosed, that the object of their advance was to obtain information respecting the Coll de Ballaguer, I am glad to find their means of getting information so scarce, for although the fort has been in our possession four days, they did not know it to a certainty in Tortosa.

As to Suchet, I believe it is very doubtful whether he will come or not. He certainly was not in Tortosa last night.

I had the honour of writing to you this morning respecting the artillery horses for the six pounders, and a medical officer. The division are in great want of shoes. If a thousand pairs were sent I would direct the money to be paid to the commissary at this place. Captain Cheyne of the Royal Engineers leaves this for Tarragona according to your Directions, I hope the others joined yesterday.

I have the honour to be,

Dear Sir,

Respectfully your's,

(Signed) W. PREVOST.

Lieut.-Gen. Sir John Murray. Bart.

I omitted to say, that there are no iron twelve pounders here, to replace the brass twelve in the fort; I have therefore not embarked till I receive your further directions.

Judge Advocate. The next was the short confidential information General Murray has stated that he himself received from Don Larente; the translation was proved by General Whittingham to be correct.

It was read as follows :

[Intelligence Larente.]

Marshal Suchet has drawn from the neighbourhood of

St. Philippe, troops to the amount of 9000 men, which have set out for Tortosa; and Suchet on the 7th, which was Tuesday, left Valencia for Tortosa, and, as report says, with the intention of attacking the division which has disembarked.

Lieut.-Gen. Sir Charles Green. Is there any date to it?

Lieut.-Gen. Sir John Murray. It came from Valencia, the 7th, and came up by sea, it came extremely quick.

Judge Advocate. It was stated in the opening that it came on the 8th.

Lieut.-Gen. Sir John Murray. I believe it was the 8th it came.

Judge Advocate. The other paper put in is, to corroborate this. It is Mr. Tupper's certificate of his having paid for the boat chartered for the purpose of bringing this Intelligence.

It was read as follows:

I, the undersigned British Consul for the City and Province of Valencia, &c. Do hereby certify, that the above is a true copy of the two original receipts in my possession, of cash paid by me to Don Larente, for the purpose of defraying the expense of sending intelligence to Lieutenant-General Sir John Murray, Bart. both by Sea and Land from this place, when occupied by the troops of Marshal Suchet, and which was done by a boat chartered for the purpose; in faith whereof, I signed the present in Valencia, this 6th day of July, 1814.
P. C. TUPPER.

Judge Advocate. The next is intelligence received from Colonel Manso, addressed to Sir John Murray.

Vendrells, 10th of June, 1813.

His Excellency Don John Murray.

RESPECTED GENERAL,

On my return here, I found two letters containing the information, that 7000 men were to arrive yesterday at Barcelona, and that this evening 10,000 men with 200 cavalry, and 14 pieces of artillery, would begin their march from that town. This moment I receive a report from within the town of Barcelona, stating, that at five P. M. of yesterday, they had not arrived at Barcelona; but that 10 guns, and 4 howitzers, were prepared ready to move, and they would have a force of 10,000 men.

To day, I have received orders to go to Villa Franca, with the battalion of Chasseurs of Catalana, leaving in Arbos the battalion of Cardona. I am informed also, that General Copons has ordered the Governor of the Correyto

of Tarragona, to destroy a bridge beyond Villa Franca. If this can be done before the enemy comes, and the defence is entrusted to me, with the battalion of Chasseurs, I will engage to detain the enemy at least one day.

The French talk much of going to Tarragona, and this gives some motive to suspect they may have other ideas. I will take care to inform your Excellency of all their movements.

(Signed)

JOSEF MANSO.

Rear Ad. Sir B. Hallouell. May I ask where he says the 14 pieces of cannon are preparing?

Judge Advocate. At Barcelona.

Rear Ad. Sir B. Hallouell. That they were only preparing at Barcelona at that period.

Judge Advocate. It states that the troops had not arrived, but that the guns were prepared. The next is a translation of another report of Colonel Manso, which is proved by General Whittingham to be correct, and that he had seen the original in the hand writing of Colonel Manso. The letter inclosing that is addressed to Lieutenant-General Clinton; there is no date to the letter, but I suppose it is the same as the date of the intelligence.

Lieut.-Gen. Sir John Murray. I believe it was; it was the day I had gone to see General Copons at Vendrills, and General Clinton was left in the command of the army.

It was read as follows:

[Intelligence.]

MY DEAR GENERAL,

3¼ P. M.

I do not know where to find Sir John, or I would send him copy of the inclosed report, which is of the greatest consequence; something must be done immediately.

I have the honour to be,

My dear General,

Your's, &c

SANDFORD WHITTINGHAM..

Lieut. Gen. Clinton.

Report from an Officer of the Staff of the Division of Majorca, dated Villa Franca, 11th June, 1813.

I have just received (half past seven, A. M.) the report from Ordal which is as follows:

"The enemy in number from 7 to 8000 infantry, and 3 to 400 horse, with 6 pieces of cannon, are in Villa Reyna (4 hours distant from this) and their advanced guard is encamped on the other side of Ordal."

The cavalry and infantry which are in this point, are under arms; and as I am informed, have orders to retire on

Vendrills, or the Coll de St. Christina, as soon as the enemy appears. The battalion of Manso arrived yesterday evening with 100 hussars of Catalana, all of which are in readiness to begin their retreat.

I shall follow the movement of these troops.

(Signed)

B. GUILLOT.

Judge Advocate. The next is another report of the same sort; the report at the top, and General Whittingham's letter at the bottom.

It was read as follows:

Villa Franca, 11th June, 1813, 7 A. M.

The enemy in number 8000 infantry, and 200 cavalry, are entering Villa Reyna, and direct their march towards this town. I am of opinion, they will not, this day, come farther than the Ordal.

(Signed)

J. MANSO.

Camp, 11th June, 1813.

SIR,

I have sent a copy of the above report, to Lieutenant-General Clinton, and as it is of such importance, I send this, in hopes the Dragoon may find you at Torradembara.

I have the honour to be,

Sir,

Your most obedient,
humble servant,

(Signed)

SANFORD WHITTINGHAM.

Lieut.-Gen. Sir J. Murray, Bt.

Judge Advocate. The next is a letter from General Whittingham to General Clinton.

It was read as follows:

[Intelligence.]

Camp, 11th June, 1813, 5 P. M.

DEAR GENERAL,

I have this moment received the inclosed report, from an Officer of my Staff, which I forward without loss of time.

I remain, dear General,

Your very obedient,

(Signed)

SANFORD WHITTINGHAM.

Lieut.-Gen. Clinton.

Judge Advocate. The next is another letter from General Whittingham to General Clinton, written at the back of the original letter of information, signed by the same person as the last.

It was read as follows :

[TRANSLATION.]

The enemy, who were in Ordal, entered Villa Franca at four o'clock this evening. The cavalry, the battalion of Cardona, and that of Manso, have fallen back upon this town, and have just arrived now at half-past nine, P. M.

Vendrills, 11th June, 1813.

B. GUILLOT.

The officer who has brought me this letter, states, that General Copons retired on this (Altufalla) last night, and that during the night, all the above-mentioned troops retired on this side the bridge of Altufalla.

As Sir John has just told me to mention to you (as from him), that as soon as Copons should have passed the bridge of Altufalla, you were to retire towards the coast, I conceive it cannot be his intention, that you now advance, as it must bring on an action. Time is exceedingly pressing, and if great care is not taken, we shall at last be engaged on these heights, to the greatest disadvantage.

Would you have the goodness to send this letter to Sir John, as quickly as possible.

I remain, my dear friend,

Your's truly,

SANFORD WHITTINGHAM.

Lieut.-Gen. Clinton.

Judge Advocate. The next is a letter from Colonel Prevost; there is no day of the month, but Sir John Murray has endorsed it 12th of June, which Sir John Murray states to be the date.

It was read as follows :

[Intelligence.]

SIR,

12th June,

I have the honour to inform you, that a column of the enemy about 3000 Infantry, and 200 Cavalry, are filing through a mountain pass in my front, by Bandillos, so as to get into the Plain of Tarragona. As I probably shall be enveloped by the morning, I shall make every disposition so as to embark at midnight, after giving the castle up to Colonel Carles, and leaving a few artillery with them, as, probably, by the morning, all communication by land with Tarragona will be cut off, and there are no cavalry transports here.

I have sent the battalion of Barcelona, to try to stop them in the mountains—if I succeed, it will delay them one day. My front may be threatened in the morning, but

I shall be prepared if I s'ay. This is what Captain Adam and myself have settled, and I trust will meet with your approbation. The castle has water, and is fully supplied with stores, as I have ordered the barrels of pork and beef, with rice, to the stock. As the dragoons may not make their way to Tarragona to-morrow, I will send them on the road to night.

I have the honour to be, Sir,
Your most obedient humble Servant,
(Signed) W. PREVOST.
Lt.-Col.

St. Philippe,
 $\frac{1}{4}$ past 4 o'clock, P. M.

Rear Ad. Sir B. Hallowell. May I be at liberty to ask when that letter was received?

President. It is supposed to have been received on the 12th of June.

Lieut.-Gen. Sir John Murray. It is the letter which the Admiral admitted, as having delivered to me on the morning of the 13th, when he came off to the Malta.

Rear Ad. Sir B. Hallowell. The letter I admitted to have delivered to you, when I came off, I did not see the contents of, therefore it may be the letter, or it may not.

Judge Advocate. The next is a letter proved by General Whittingham, to be the hand writing of General Copons, addressed to Sir J. Murray.

It was read as follows :

EXCELLENT SIR,

I have just received your Excellency's esteemed letter ; and when this reaches the hands of your Excellency, my Aid de Camp, Guantier, will have you informed of the circumstance that obliged me to fall back to the neighbourhood of the Coll de Santa Christina.

When your Excellency raised the siege of Tarragona, I remained with my troops, to cover the retreat of your Excellency's army, in the situation your Excellency desired.

The enemy retired that night to Barcelona ; and upon this, I detached three battalions to observe his movements.

On receiving intimation that your Excellency continued with troops, in the neighbourhood of the Coll de Ballaguer, and that Suchet occupied, with part of his army, the position to the right, I advanced to this place, with five

battalions, in order to co-operate with your Excellency, if necessary.

The re-advance of the enemy, however (being yesterday morning, again at Villa Franca) obliges me to direct my march to the Coll de St. Christina, where there is already one of the three corps that were observing the enemy.

The enemy cannot proceed that way with artillery, as the road is cut, but he can come by the main road, which it would be useless to cut, as I am unable to place myself in any situation there to defend it.

I send your Excellency this intelligence, that you may, if you think proper, order some vessels of war, in front of Torradembara, to incommode, as much as possible, the advance of the enemy.

Your Excellency may be assured, that I will do every thing in my power to contribute to the safety of the army under your Excellency's command.

I have the honour to be, &c.

FRANCISCO COPONS.

Navia.

Reus, 16th June.

Rear Ad. Sir B. Hallowell. I beg pardon for being troublesome, but I wish to ascertain whether the letter from Colonel Prevost, is the one I delivered to Sir John Murray on my coming on board, after embarkation?

Lieut.-Gen. Sir John Murray. It is, certainly.

Rear Admiral Sir B. Hallowell. That is quite sufficient.

Lieut.-Gen. Sir John Murray. I think I stated on Saturday positively, that it was the letter, and that I went in consequence, to the Coll de Ballaguer, and, I believe, the Admiral had the same intelligence by Captain Sharpe.

Judge Advocate. The next is a letter from General Donkin, addressed to Sir John Murray.

It was read as follows :

DEAR SIR, *June 11th, 3 P. M.*

The peasant who brought the letters, which contain intelligence of Suchet's and Harispe's arrival at Tortosa with 8000 men, says, that they marched this day again. The letters or copies have been forwarded to General Copons.

Now as this corps of infantry may be at Reus to-morrow, if they think proper to march by Pérello *without* artillery, and as De Caen, if he marched this day to Villa Franca, can also reach Reus to-morrow, this possibility may, perhaps, make some change in your arrangements.

If De Caen has not marched from Molins del Rey, but marches to-morrow, in order to draw you towards the Gaya, then if Suchet's corps comes by the mountains to Reus, he will be able to throw troops into Tarragona by your rear.

I have sent Captain Jones to Cambrills, with orders to send on some one to Monroiy, to see and report, and even go on himself if necessary, but as many villages in the direction are ruined, Suchet may be very near, before we hear of him.

This road by Perello, is the one I took the liberty of mentioning to you yesterday, as necessary to be broken up.

I inclose some letters received for you, and which General Clinton sent to me to open.

I have the honour to be,

Dear Sir,

Your most faithful,

and obedient Servant,

Lieut.-Gen. Sir John Murray, Bart.

R. DONKIN.

Judge Advocate. The next is another of the letters from the Alcalde of Perello. That is proved in the same way as the other.

It was read as follows,

Perello, 17th June, 1813.

The Officer Commanding the Troops at the Coll de Ballaguer.

SIR,

The French troops marched from here this morning at eight o'clock, and there arrived eight regiments of foot, and eight hundred horse; they say they are going to Valencia, but of this I am not certain.

Suchet set off last night in the direction of Tortosa; this is all my information for the present.

We have been very ill treated in this Village, the enemy having taken the whole harvest for the use of their horses. The place has not been sacked indeed; but they have carried away all the mugs, plates, and dishes, and we are suffering severely from thirst, for they have scarcely left a drop of water in the wells. God be praised, however, we have got off with our lives, which is the chief consideration.

Your obedient servant
JOSE LLAS BAILET.

(Signed,)

*True Translation,
George D'Aguiar
Lieutenant Colonel.*

Judge Advocate. The next is a letter from Mr. Tupper.
Castalla, 7th June, 1813.

It was read as follows :

[Intelligence.]

SIR,

On Tuesday the 2nd instant, I dispatched one of my agents, Antonio Garcia, to St. Philippe, Alzira, Valencia, Murviedro, Tortosa, and from this last place to your Excellency's head quarters, to give you an account of his observations, at said places, as well as of the movement of French troops, between this place and Catalana; for which purpose he was ordered to follow the high road. The Spanish troops occupy exactly the same position, and the enemy, therefore, remains quiet as before; but their force has been considerably diminished since the 2nd instant. Here follow the most correct statement I have been able to procure.

At Fuente le Higuere No. 7 remains 1200 Men.

Venta de la Balsa..... 44 do. 600

Mogente..... 116 do. 800

Ontenicete..... 14 and 16 do. 1500

Do..... 3 Companies of Hussars

Albaida and Adsancta 117 do. 1200

besides which a very small force at St. Philippe. We know of 5 Regiments having crossed the Xucar for Valencia, 2 of which 5 Regiments were the 121st and 1st.

Our advices from Valencia only go as far as the 3rd instant, at which period we know that some of the enemy's force at Chiva and Chestre had marched for Tortosa.

I am now hourly expecting two of my agents from Valencia, and if they arrive before I close this, I shall give your Excellency a copy of the information they bring me. Madrid was evacuated by the enemy on the 28th, their direction it was said, was towards Valladolid.—Should it prove necessary to send you any further advice overland, the next person I shall order on that service will be Manuel Moral.

I have the honour to be, Sir,

Your most obedient humble Servant,

(Signed)

P. C. TUPPER.

Judge Advocate. The next is a letter from Gen. Copons to Sir John Murray, that is the paper proved by Gen. Whittingham this morning.

(It was read as follows)

EXCELLENT SIR,

I have just received your Excellency's letter of 9th instant; and observe, that, although your Excellency has received no intelligence from the Duque del Parque's army,

you are expecting it from one moment to another, and that the embarkation of the troops will take place as soon as he arrives at the point agreed upon.

Since His Excellency the Duke of Ciudad Rodrigo was pleased to make known to me the operation against Tarragona, I have not lost a moment, nor an opportunity, in preventing that place from receiving succour.

Seeing that the enemy is much superior to my army, as well in the number of his troops, as in the advantage which he derives from the strong holds in his possession, I have confined myself to withdrawing the largest part of his forces to a great distance from that place; and I have the satisfaction to inform you, that one of my brigades has reduced to 400 men a column of 1500.

But, notwithstanding this, the enemy has found an opportunity to march to Tarragona, with a column of 5000 Infantry, 300 cavalry, and 6 pieces of artillery. It was impossible for me to hinder this movement, on account of the rapidity with which it was made from Barcelona; and, because, the disposable forces which I have, deducting those which I must leave in front of General Lamarque, do not amount to this number by a great many; besides, I am absolutely deficient in artillery.

On the other hand, I do every thing in my power to avoid coming to a decisive action, because I know if any misfortune should happen to this army, in the present circumstances, it might be fatal to it, as well as to the expedition which your Excellency has under your charge. The French remain in Tarragona, and I hope they will return to Barcelona very shortly. The object of this expedition has been to succour the Coll de Ballaguer, and to introduce provisions into Tarragona. I believe, with foundation, that the garrison of this place, will not be augmented nor relieved.

When your Excellency's army appears upon this coast, I will make use of every possible means to prevent the French from reinforcing the garrison of Tarragona.

God preserve your Excellency, &c.

(Signed) FRANCISCO DE COPONS.

Navia.

Head Quarters, Villa Franca,

16th May, 1813.

Judge Advocate. It is suggested by Gen. Murray that he would wish now to call Captain Milner to prove a letter which he omitted on Saturday, that will introduce the answer which I am about to read presently. I will now read the

report of the Deserters sent in by Col. Adam, the 15th or 16th of June, the signature was proved by Col. D'Aguilar ; and Sir John Murray stated, that it was sent in to him on the 15th or 16th.

It was read as follows :

Manoel Antonio Castalletti.

Officers Servants.—Westphalian Cavalry.

Left the enemy two or three hours since, in full march for Perello, all together, Suchet and all 8 thousand, Hus-sars, Dragoons, squadron Westphalians, 500 Cuirassiers, 16 pieces Cannon, 2 or 3 of these 16 pounders, some 12 pounders, all field pieces and howitzers, not a thousand horse all together ; all unite to day at Perello. Report that Suchet is going to San Philippe, but no other movement was known ; Pannatier commanded the column in the Valley, 20th line, 2 battalions, 5th legere, 3 battalions, 3d legere, 3 Companies and Westphalians, all 3000. With Suchet, 121st line, 114th, 117th, 8th regiment he remembers, but not the number of the other corps.

Captain Milner called in again.

Sir John Murray's letter-book was shewn to Captain Milner.

Judge Advocate. Is this a letter of your entering ?

A. It is.

Q. Did you see the original at the time ?

A. I did.

Q. Do you conclude this was forwarded as a matter of course to the Duke of Wellington ?

A. I believe it was.

Judge Advocate. The Court will understand that, that I am about to read, is an extract from the letter, which produced the answer I am about then to read, from the Duke of Wellington.

A letter shewn to Captain Milner.

Judge Advocate. Is that Colonel Prevost's hand-writing ?

A. It is.

The letter was put in.

Rear Admiral Sir Benjamin Hallowell. May I beg to ask, when that report of the deserters was received ?

Judge Advocate. The 15th or 16th.

Rear Admiral Sir Benjamin Hallowell. Is Sir John Murray sure when he received it ?

Lieut.-Gen. Sir John Murray. I believe it was about the same time, the 16th.

Judge Advocate. This is a report stated to have been

received on the same day, from another deserter. This is in French.

Lieut.-Gen. Sir John Murray. It was only to shew the number of regiments that I put it in.

Judge Advocate. I will read that part which respects the number of the regiments, and of men, and the translation of it may be put in afterwards.

President. The number of the regiments, is all Sir John wants.

Lieut.-Gen. Sir John Murray. Yes; the number of the men is very incorrect.

Judge Advocate. If you give it as your evidence, it cuts both ways—it is then evidence of the numbers, as well as of the regiments; you cannot put it in to shew, that the Alcalde is right as to the regiments, but not as to the numbers, unless you can shew that he is incorrect as to the numbers—it is evidence as far as it goes of the numbers—it will be for you to consider, whether it is for your advantage, if it is contradictory, in respect of numbers to your other evidence.

Lieut.-Gen. Sir John Murray. It is, certainly, contradictory to my other evidence as to the numbers.

General Earl Ludlow. If we take any, we must have the whole; we cannot garble it.

Lieut.-Gen. Montessor. If it is put in, it is all equally evidence.

President. If Sir John Murray should conceive it a material object, to shew what corps were there, and he can shew afterwards that there is a mistake in the numbers; it will have all the weight that it ought to have, afterwards.

Lieut.-Gen. Sir John Murray. I have taken the numbers from General St. Cyr's statement.

President. The Court cannot receive one part of the paper as evidence, and not consider the other as evidence; you will judge yourself, whether you can make such use of it, as is advantageous to yourself.

Lieut.-Gen. Sir John Murray. I will leave it entirely to the Court, to give it what weight they think it deserves.

Judge Advocate. Sir John Murray puts it in, at the same time conceiving he can give better evidence of the numbers, it seems to take off the effect of the other part, if he is wrong in one thing, he may be in another.

Lieut.-Gen. Sir John Murray. Then I will withdraw it, it is of no consequence.

Judge Advocate. If half of it is false, the other half may be so too, so that if you contradict the numbers, the remainder does not appear intitled to much weight.

Lieut.-Gen. Sir John Murray. I think a man might know extremely well, that there were such and such regiments there, but might not know the strength of them, he might form a very inaccurate opinion of their numbers.

Judge Advocate. It rests with yourself whether you will have it read or not.

Lieut.-Gen. Sir John Murray. No, I will withdraw it under the circumstances; I do not consider it as evidence at all of the fact, but only put it in to corroborate the statement of the Alcalde of Perello.

Judge Advocate. This is the letter proved by Captain Milner just now. It is a letter from Colonel Prevost.

It was read as follows.

San Philippe, 11th June, $\frac{1}{2}$ past 8 o'clock. A. M.

SIR,

Since my letter of last night, written at $\frac{1}{2}$ past ten o'clock, I have seen a peasant, who left Tortosa at 4 o'clock in the Afternoon.

Suchet, Harispe, and a General of Artillery, with a squadron of the 24th light dragoons, entered the town at eleven, and the troops (between 4 and 5000) at 2 o'clock. A squadron of Cuirassiers was expected, and there was a talk of more Infantry coming.

Four of the Peasants that were best acquainted with the country, were taken as guides. Many enquiries were made concerning the Coll de Ballaguer. I have just received an order from the Quarter-Master-General, to send Roll's Rifles to Tarragona. They will be a sad loss to me, and weaken my means of defence, which was before respectable. Roll's Rifles leave this in $\frac{1}{2}$ an hour.

I have the honor to be, Sir,

Your most obedient humble Servant

W. PREVOST,

Commanding 2d Brigade.

Lieut. Gen. Sir John Murray. That was sent to head quarters when I was absent; when I returned at 9 o'clock at night I found it. There is a return of the Spanish army, and from that return, I have taken (merely to save the Court the trouble) the regiments actually serving with us, that is the strength of those regiments.

Judge Advocate. This is a paper signed "Cabanes" the

disposition that the troops were to take the 11th of June, at 9 in the morning.

It was read as follows.

Disposition which the troops will take to-morrow morning at 9 o'clock.

Coll de Ballaguer { Palma,
Barcelona.
Line of the Gaya.

Position of the left { San Fernando
Tarragona
Maturo
Catalaña
Cardona } Coll de San Cristina
and Adjacents.

Position of the right { Cuirassieurs
Hussars
Lancers
General
Ultonia
Baya
Leales Manresanos } Positions be-
tween Cres-
sels and Tor-
radembara.

NOTE. The battalions of Fernando 7th and Ausonia, are to come to the Coll de San Cristina, if the General Lamarque comes with the troops of Barcelona.

Reus, 10th June, 1813.

(Signed) F. M. CABANES.

True Translation,
George D'Aguilar,
Lieut.-Colonel.

Judge Advocate. Sir John Murray says, there you have the whole of the regiments, and of their strength by Cabanes, and then he puts in a paper, containing the numbers of particular regiments. This is a return of the Catalonian army dated "Vick" on the 7th of May, signed "Cabanes," and proved to have been officially received by Sir John Murray; this gives the whole of the army; Sir John Murray wishes to have in evidence, only the numbers of the regiments that were near him.

Lieut.-Gen. Sir John Murray. It is with reference to the operations we carried on on the 12th.

Judge Advocate. The correct way would be, to call some person, who has compared this paper with this return.

Lieut.-Col. D'Aguilar. I have.

Judge Advocate. There will be no objection to swearing Col. D'Aguilar to this.

Lieut. Gen. Sir Samuel Auchmuty. Not the least.

Judge Advocate. (to Lieut.-Col. D'Aguilar) Did you extract the number of the regiments, mentioned upon that general return, and place them upon that paper?

A. I did.

Q. Are they all correct?

A. They are, I believe, but for greater certainty I will compare them again.

Lieut.-Col. D'Aguilar compared the papers.

Q. Having looked over that, are the numbers correct?

A. They are perfectly correct.

It was read as follows :

State of the Spanish army, according to a disposition made of its force to meet the enemy by General Copons, Captain General of the Province of Catalonia, on the morning of the 11th June, 1813.

The strength of the corps taken from an official return of that army dated head-quarters, Vick, 7th May, 1813.

Coll de Ballaguer.		{ Palma..... 479 }	1,271
		{ Barcelona..... 792 }	
		Line of the Gaya.	
Left wing. Position Santa Christina and adjacents.	San Fernando		605
	{ Tarragona		822
	{ Mattaro		480
	{ Catala�a		832
	{ Cardona		632
		3,371	
Right wing. Position between Cressels and Torra- dembarra.	Cuirassiers		101
	{ Hussars		199
	{ Lancers (no return)		
	{ General		392
	{ Ultona		543
	{ Baza		366
	{ Leales Manresanos		730
		2,331	

Total force on the line of the Gaya, infantry and cavalry 5,702

N. B. The battalions of Fernando 7th and Ausonia, amounting to 1225 rank and file, were to join at the Coll de Christina, provided General Lamarque advanced with his corps from Barcelona.

This General was employed in the North of the Province to watch when the above-mentioned battalions were left at Vick, under the command of the Baron d'Eroles.

J. MURRAY,

Lieut.-Gen.

Gen. Sir G. Beckwith. What is the total in the whole return of General Copons's army. I do not want the particulars, but only the sum total at the bottom.

Judge Advocate. In the general return of the whole of the army on the month preceding; the whole of his disposable force is rank and file 9,598, with the officers 10,858. The next is a letter proved by Col. Thackeray to be his translation of the original, which was in General Copons's hand writing, it is dated, "Head quarters, Vick, May 7th, 1813." The paper is not all desired to be read; Sir John Murray has marked the extracts he wishes to have read.

The extracts were read as follow.

The French troops occupy in the principality of Catalonia the following posts :

	Infantry.	Cavalry.
Pingcerda.....	3800	200
Olot.....	700	
Figueras.....	700	
Gerona.....	6800	370
Hostabrich.....	250	
Barcelona.....	7400	360
Tarragona.....	1100	30
Tortosa.....	400	
Lerida	800	60
	21,950	1020

The line from Olot to Gerona has two intermediate fortified posts, Baralu, and Bañolan, with a small garrison in each.

The line from Gerona to Barcelona is secured by the Castle of Hostabrich, and the forts of Maltaro and Moncada.

The line from Barcelona to Tarragona has no intermediate post except the Tete de Pont of Molins de Rey on the River Llobregat.

The line from Tarragona to Tortosa, has the intermediate post of Fort St. Philippe on the Coll de Ballaguer, which commands the high road, and is situated above the Sea shore.

The line from Tortosa to Lerida, has the intermediate fortified posts of Flix Mora, and Mequinenza.

The enemy holds three points in Catalonia; where, besides the Garrisons, are moveable columns, which are employed in various services, these are Pingcerdà, Gerona, and Barcelona.

Pingcerdà.—Of the 4000 men in this cantonment, 3000

are constantly in motion, sometimes threatening Su de Urgel, the communications with Olot, or the countries in the neighbourhood, from whence they draw considerable contributions.

Gerona.—Of the 7000 men in Gerona, more than 5000 are constantly in motion for the following purposes :

1. To guard Olot, and cover it from any attack on our part, as its preservation is of great consequence to the enemy, by preventing the Spanish army from invading the fertile country of the Ampurdan.

2. Escorting convoys from France by Figueras to Gerona.

3. Conducting these same convoys from Gerona to Barcelona, which is performed by the co-operation of the troops, which march from the latter fortress. The enemy at Barcelona, and Gerona, having concerted measures for the passage of the convoy, it marches from the last mentioned place, and in one day arrives at the Castle of Hostabrich, from whence it proceeds to Cardedon, or Gronollas, where it is joined by the troops from Barcelona; and thus the Spanish army is prevented from making any attempt to impede its march, as it presents every where superior numbers. With these corps united, they sometimes threaten to invade Vic, and other places in the interior of Catalonia which took place in November, 1812.

Barcelona.—Of the 7500 men in Barcelona, some garrison the forts of Matero, Moncada, and Molins de Rey; others guard the City and its fortresses; the remainder, to the amount of about 4000, can march and manœuvre in the country. The principal operation which these troops undertake, is the protection of convoys, in conjunction with the troops from Gerona; and besides, they invade the country adjacent to Barcelona, to the distance of three, four, and even five leagues, to levy contributions. Sometimes, these troops go as far as Villanueva, and very seldom to Tarragona; in the whole of this year they have been only once to Villanueva, and not once to Tarragona.

The Garrison of Tarragona never stirs from its precincts, while there are Spanish troops in Reus; when these fall back, the Garrison marches thither to levy contributions, but always remains there a short time.

The garrisons of Tortosa and Lerida, are confined to these places.

Judge Advocate. The next paper is a return put in by Colonel Kenah, dated the 1th of June, 1812.

President. This is the state of the army under Sir John Murray, at the time of the siege, I understand.

Lieut.-Gen. Sir J. Murray. It is the state of the army as it disembarked, and I never had any reinforcement, therefore it must be the whole.

It was read as follows :

Whittingham's Infantry.

3 Field Officers.	60 Serjeants.
5 Captains.	15 Drummers.
14 Subalterns	905 Rank and File.
4 Staff.	

Less than last state, unaccounted for, supposed to be left at Alicant.

Sicilian Infantry.

1 Staff, and 2 Rank and File less.

And 3 Serjeants more than last state unaccounted for.

N. B.—The division of Major General Roche Whittingham's Cavalry and Artillery, and the Sicilian Cavalry, consisting of

13 Lieut.-Colonels.	368 Serjeants.
8 Majors.	211 Drummers.
71 Captains.	6728 Rank and File.
227 Subalterns.	1100 Horses.
30 Staff.	184 Mules.

Left at Alicant and Alcoy, struck off since last state.

*Weekly State of the Allied Army commanded by Lieut.-General Sir John Murray, Baronet.
Head-Quarters before Tarragona, 4th June, 1813.*

Head-Quarters before Larragona, 4th June, 1876.																								
	Officers present.						Serjeants.			Drummers.			Rank and File.				Horses.	Mules.	Alterations.					
	Colonels.	Lieut.-Cols.	Majors.	Captains.	Subalterns.	Staff.	Present.	Sick.	Command.	Total.	Present.	Sick.	Command.	Total.	Joined.	Discharged.			Deserted.	Transferred.	Promoted.	Reduced.		
British and German Cavalry.....	2	2	9	16	8	56	56	2	58	10	10	36	36	760	728	..	..	..	..	..	..
Whittingham's Cavalry.....	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Total Cavalry.....	2	2	9	16	8	56	56	2	58	10	10	36	36	760	728	..	..	..	..	..	..
British, Portuguese, and Sicilian Artillery.....	1	12	21	9	..	27	27	2	36	7	1	9	58	990	362	604	..	..	..	..	..
Whittingham's Artillery.....	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Total Artillery.....	1	12	21	9	..	27	27	2	36	7	1	9	58	990	362	604	..	..	..	..	..
Brit. Engineers and Staff Corps	..	..	4	5	..	4	4	2	6	..	2	8	36	119	..	..	..	..	..	..	..
British and German Infantry.....	9	12	64	179	60	399	487	484	179	9	11	199	7,462	801	472	8735	..	2	5	1	6	..		
Whittingham's Infantry.....	5	6	4	37	152	23	227	..	237	168	..	168	4,332	..	..	..	..	..	..	..	..
Sicilian Infantry.....	1	2	1	12	38	13	36	2	4	42	2	35	974	118	232	1374	17		
Total Infantry.....	7	17	113	369	96	662	504	1753	378	11	13	402	12,818	919	754	14,491	..	2	5	1	23	..		
General Total.....	7	19	20	188	411	113	749	5252	853	395	12	16	423	14,324	1021	1015	16,360	1088	604	2	5	1	23	
Sick.																								

Horses Sick.

British Division..... 47
Whittingham's Division ..
Total..... 47

N. B. The apparent decrease of the Sick, is in consequence of General Whittingham's Division not having returned any Sick in their last state.

Sick.

Last State..... 1,580
This State..... 1,085
Decrease... 495

(True Copy) General D'Aquila, Lieut.-Col.

(Signed)

THOS. KEANE, A. A. General.

Lieut.-Gen. Sir J. Murray. I must beg leave to remark to the Court, that the artillery drivers are included in the number; and under the head of British and German infantry, are included all the Sicilian infantry, and all the infantry in the pay of Great Britain.

Gen. Sir George Beckwith. It is the whole Allied army excepting Copons's corps?

Lieut.-Gen. Sir J. Murray. Yes it is.

Judge Advocate. There are papers put in which are not, in fact, official returns, by Colonel Williamson, as they bear a subsequent date. If they could be received, it would be enabling Colonel Williamson to give that information not upon oath, when he is here to give it upon oath, and in that way, Sir Benjamin Hallowell might have given all the statements of his witnesses, into any persons hands to read. I have the less difficulty in making the objection, because he is here to remove it.

Lieut.-Gen. Sir John Murray. I beg to state how these came to be in my possession. When the trial was expected to be in Spain, I applied to General Clinton for such returns as might be necessary; these were sent to me as the returns of the army at the time, and as such, I beg leave to present them.

Judge Advocate. This is the signature of the officer, importing that this is a copy from something, but there must be proof that it is a copy from that. If he proves that these were taken from authentic documents, that will render them evidence, but at present we do not know what they are taken from.

Lieut.-Gen. Sir J. Murray. If you will give them me back, then I will call Colonel Williamson at a future time.

Judge Advocate. This is a return of mules stated to be signed by Mr. Daniel. Colonel Williamson has proved this is Mr. Daniel's hand-writing, but if it is admitted upon that proof, that is in fact enabling Mr. Daniel to give evidence through Colonel Williamson. There is, I apprehend, no way of making it evidence, as Mr. Daniel is not here to prove it; if these were admitted, there would be an end to all evidence upon oath.

President. Where is Mr. Daniel?

Lieut.-Gen. Sir J. Murray. He is in Spain, settling the accounts of the army; there was no possibility of his being brought here.

Judge Advocate. I will put this by for consideration with the other papers.

Lieut.-Gen. Sir John Murray. The Court must be aware that I cannot have better evidence in the nature of the Case; Mr. Daniel certifies under his hand, that no animal for the Commissariat was embarked.

Judge Advocate. There is no evidence that it was so.

Lieut.-Gen. Sir John Murray. It is the same evidence as is given as to the returns.

Judge Advocate. Returns are admitted in a Military Court, if made in the course of office.

Lieut.-Gen. Sir John Murray. I can lay before the Court the official letter from Head Quarters, inclosing these, and proving that they came to me officially.

President. I think they should be laid before the Court for consideration; there is a great difference between the proceedings of a Court Martial, and those of an ordinary Court of Justice.

Judge Advocate. It strikes me Admiral Hallowell might equally put in all his returns.

President. There can be no doubt that the observations of the *Judge Advocate* are perfectly right; it is for him to state all the objections which occur to him upon the evidence; it will be for the Court to judge of the objections, and decide whether they shall, under the circumstances, be received.

General Nicholls. The Admiral's witnesses, who have made statements were all here, this person is not here.

Judge Advocate. It would equally have let in all the Spanish statements.

Lieut. Gen. Sir John Murray. It appears to me that this stands in a perfectly different situation; this is not in consequence of any request to those Officers from me, but in consequence of an order from General Clinton, who was in the Command of the army, to the different Officers to make returns to me, of the state of the different Corps, and the different departments at that time.

President. I suppose that is something from the Books of the army.

Judge Advocate. I might have equally sent to the Spanish Officers, to make returns to the Duke of Wellington, of their statements, and they might equally have been produced in evidence.

Lieut. Gen. Sir John Murray. The very beginning of the letter states, "I have the honour by direction of Lieutenant General Clinton, to transmit to you several official returns."

Judge Advocate. I will now proceed with the Correspondence; the first, is a letter from Lord William Bentinck, dated "Palermo, May the 9th."

The following Extract was read.

"Palermo, 9th May, 1813.

"I shall however at any rate, send back the 6th German Legion, the 44th regiment, and the detachments of the Italians and Neapolitans; these will sail in about ten days.

"I have resolved to give the double ration of provisions, in money, to the Neapolitan and Sicilian Officers according to an old custom in this service; this I hope will satisfy them. I think the men, ought to receive nothing for working parties, let them follow our practice in this respect. I strongly suspect, that the asserted resignations, were a mere contrivance to obtain better terms, either better rations, or bat and forage; but let Pastore know, that if any more are offered, immediately to accept them. We have many more Officers than we know what to do with, or can pay. I know these people very well, they always want something, they are never to be construed literally; we have (preferred) the double ration to the Officers, although more expensive than the English rations, lest the soldiers should then want it. This commutation in money will also be an answer to the claim, that may hereafter be made for bat and forage. I shall send your horses by the transports, that go with the troops, if I then find that I am unlikely soon to go to Spain, for the present I shall disembark them; I conclude they are in the same ship with the horses of General Davis, who by the way is very unwell.—Great discontent prevails in Italy, I wish he could transfer our troops from the Coast of Spain to that of Italy, I am sure the cause of Spain itself would be much more promoted by it."

Judge Advocate. The next is a letter given in by you, of the 4th of June. Admiral Hallowell admitted that to be correct, and offered you another of the second; I do not know whether you wish that to be read.

Lieut. Gen. Sir John Murray. Certainly.

The letters were read as follows:

His Majesty's Ship, Malta, off Salou,

"2d June, 1813.

SIR,—I have the honour to acquaint your Excellency, that the Allied army, from Alicant, is now off this

Bay, and will anchor in the course of the day. I have as yet had no communication with General Copons, who is at Reus; but I propose landing the troops without delay. Whether the battering train will be landed or not, immediately, will depend upon the information I shall receive. As your Excellency has so obligingly promised every co-operation in your power, I beg to acquaint you, that, in my opinion, the success of this operation depends in a great measure on preventing the junction in force of the French Catalonian army, with that which Suchet will, no doubt, march with the utmost rapidity from Valencia. Should it not interfere with other more important services, which your Excellency may have in view, I beg to submit to you, whether the appearance of the fleet, under your command, on the coast, might not prevent the possibility of General De Caen marching, or detaching in any force to this quarter.

A threatened attack upon Rosas, for instance, I should hope would have this effect, and probably, should he weaken his force in that part of the country, that place might fall into your hands. There may be other places more proper for this diversion, but it is necessary that it should be at a distance from the scene of our operations.

I have the honour to be, &c.

(Signed) J. MURRAY, Lieut. Gen.

Sir Edward Pellew, Bart.

*Camp before Tarragona,
June 4th, 1813.*

SIR,—I had the honour of writing to you two or three days ago. I have now to acquaint you, that the army is disembarked, and I cannot too earnestly press upon your Excellency the importance of the fleet making a demonstration on the coast. Rosas, as I have before said, appears to me the most favourable point, because it is at a distance, to prevent the co-operation of the armies of Valencia and Catalonia, whilst at the same time it is assailable.

I have, &c.

J. MURRAY.

Sir Edward Pellew, Bart.

Rear Admiral Sir Benjamin Hallowell. Mr. Judge Advocate, would this be a proper time for me to ask Sir John Murray when he delivered that letter of the 2d of June to me for transmission to Sir Edward Pellew?

Judge Advocate. I do not think this the proper time.

Lieut. Gen. Sir John Murray. I am not aware that I am obliged to answer the question.

Lieutenant General Sir Samuel Auchmuty. Certainly not, and it is no evidence if you do.

Rear Admiral Sir B. Hallowell. I stand accused before this Court of having withheld that letter after it was delivered to me, and that is my reason for asking the question.

Lieut. Gen. Montessor. You can ascertain that, perhaps, from some of the witnesses.

Rear Ad. Sir B. Hallowell. I know when it was delivered to me, but I think it is hard for me, that these Charges are brought against me after I have closed my Case, and that I am not at liberty to answer them.

Judge Advocate. You will have an opportunity of clearing up these points.

Rear Ad. Sir B. Hallowell. And calling back my witnesses ?

Judge Advocate. Yes, upon those points.

Rear Ad. Sir B. Hallowell. I am satisfied.

Judge Advocate. The next is a letter from Sir Edward Pellew to Sir John Murray.

It was read as follows :

*H. M. Ship Caledonia at sea,
8th June, 1813.*

SIR,

The *Ganymede* joined me yesterday, with your letters of the 2d and 4th June. I am much indebted to you for the gratifying intelligence of your landing in Catalonia, and that Tarragona was invested with every prospect of its speedy surrender. In compliance with your request, a proposition I had already suggested to Admiral Hallowell by my letter of the 5th instant, I have quitted my station off Toulon, with the fleet under my command, and am now on my way off Rosas, where I shall be in readiness to undertake any operation which may be of advantage to your plans of proceeding; and should you propose any joint service, in which his Majesty's ships may assist, such force as you think proper to detach for such service, I shall most zealously afford my aid, and act with the utmost cordiality. Meanwhile my presence will, I trust, produce the effect of alarming the enemy, and prevent his concentrating his force to the southward, under an apprehension of a disembarkation in the neighbourhood. Indeed, it is in my contemplation to land the marines of the fleet, to give as much annoyance to the French as can be produced by so

small a body of men; and I shall anxiously await for further communications under a hope of co-operating in some more important service. I have been some days past expecting Lord William Bentinck in his Majesty's ship *America*, from Palermo, as his last letter gave me every expectation of his embarking about the 27th ult. I trust his Lordship may, therefore, have proceeded direct to the coast, and joined the army before this period.

I have the honor to be, Sir,
Your Excellency's most obedient servant,
(Signed) E. PELLEW.

Judge Advocate. The next is an extract from the Letter-Book of Sir John Murray, of a letter which his Military Secretary states to have been written by him, and sent to Lord Wellington.

It was read as follows :

" Castalla, May 11th, 1813.

" UPON the subject of our expedition I have made some calculations, and the result is, that Suchet will be enabled to collect, in the neighbourhood of Tarragona, a force of about 24,000 men, in twelve days, after he knows of our embarkation. In that time, provided we have a fair wind, and every thing goes on well, the place may be taken; but it is necessary that every thing should be in our favour. I calculate, too, that Suchet will be enabled to have about 14,000 men to oppose the 2d and 3d armies. Our force, I conceive, will be about 12,000 Infantry, 2000 from Galicia, and 8000 Catalans, in all 22,000, of which 3 or 4000 will be employed at the siege. Allowing, therefore, that the force of the enemy is exaggerated, (which I do not believe it to be) he will have a great superiority in any attempt he may make to relieve the place. We shall, however, be entrenched if he leaves us a few days."

Judge Advocate. The Court will recollect a letter from the Duke of Wellington, in answer to this, was put in, of which this is an extract.

It was read as follows :

" Tamaris, May 23d, 1813.

" I think, that in reckoning Suchet will bring 24,000 men to raise the siege of Tarragona, leaving 14,000 in Valencia, you have over-rated him, and have not allowed for the necessity of keeping respectable garrisons in all the places in Catalonia; if he is to weaken these garrisons, he cannot then be at Tarragona in 12 days.

"I think also that you reckon too much upon the Spaniards ; but if it be true, as Copons and Cabanes agree, that with 14,000 disposable troops, they could keep the French in check in Catalonia, how can Suchet collect 24,000 men disposable in Catalonia, leaving 14,000 in Valencia ?

"I acknowledge that I have always found the French in the field, fully equal to the highest calculation of their numbers, and greatly exceeding the general report ; but I think, not only that this calculation is over the mark, but that, with weaker numbers, they will be more than a match for you."

Judge Advocate. I think these are all that were not in some way or other questioned ; it is now proposed to prove the hand-writing of Ferras, the chief of the Staff of the Duque del Parque.

Lieut. Gen. Sir John Murray. I will do that when General Donkin is called.

Judge Advocate. We are now come to the papers which were suspended. I think it right to mention to the Court, that on looking at the papers, it appears to me that there are three which the Court might receive, and that, if so, they might be read now. I mean the returns of General Whittingham, General Donkin, and Colonel Cabanes, of the strength of the French force ; at first it appeared to me, that there ought to be evidence of the grounds upon which those persons made out those estimates ; but the ground upon which Sir John Murray gives them in evidence, is to prove, that such were given in as the calculations of persons so standing in the army, that he ought to pay respect to them, and that they are, therefore, admissible.

Lieut. Gen. Sir S. Auchmuty. It appeared to us at this end of the table, that they might be received ; that the question was not whether they were to be taken as in all their parts true, but whether Sir John Murray received them, and must have been expected to have acted upon them.

Judge Advocate. Then I will read them. The first is proved by General Whittingham to be the hand-writing of Cabanes—it is dated the 1st of May, 1813—it is his calculation from the best means he had of obtaining it.

Lieut. Gen. Sir John Murray. That return is very particular : for there is the force of the French in every garrison, and there is the strength of every regiment.

It was read as follows :

Ejército francés de Cataluña.

Estado de su fuerza el 15 de Abril, de 1813, según lo que

tra podido, dedúcie de las noticias de los confidentis yorduciones de los desertores.

Tropa.

Caballes.

22550 1088

Judge Advocate. The next is a similar paper of General Whittingham, which he proved to be in his hand writing.

Lieut.-Gen. Sir John Murray. That is an estimate of the army of Arragon, the other is the army of Catalonia.

It was read as follows :

Force and Distribution of the Army of Marshal Suchet.

Alcoy, 19th March, 1813.

	Infantry.	Cavalry.	Pieces of Artillery
From the river Ebro to the Turia, in different garrisons.....	2055	290	14
The column of the Chef de Battalion Ronfort, employed in pursuit of Trayle Nebot.....	650	80	...
Apothor column commanded by the Chef de Brigade Pannatier observing Villacampa and Sarsfield.....	2000	250	3
In the Kingdom of Arragon, in different garrisons.....	6280	605	40
In the castle of Mequinenza they have immense magazines of grain of every nature.....			
In Albayda and Adzeneta, the division of Habert consisting of the 14th, 117th, and 17th regiments of infantry, each of 2 battalions, and one squadron of Cavalry (4th Hussars).....			
In San Philippe, Suchet with the 3d and 5th Leger, the 129th and 114th infantry, all of two battalions, except the 3d Legere, which has three battalions, and 500 Cuirassiers, making a total between Suchet and Habert, of 15 battalions (say 700 each) 500 Cuirassiers, and 1 squadron of Hussars.	10,500	600	...
In Fuente La Higuera, Mogente, Canales Vallada, and all the Vega, included the small garrisons of Alzira and Valencia, about 7,000 infantry the 24th Dragoons, and 3 squadrons of the 4th Hussars.....	7000	950	not known.
Total.....	28,485	2775	57

Number of Guns not exactly known.

The force, therefore, immediately before the Allied army, consists, according to this calculation, of 17,500 infantry, and 1550 cavalry, of which number 10,500 infantry, and 600 cavalry, are within a day's march of Alcoy.

The only error which can possibly exist in this calculation, may be in the force stated to be in Fuente de la Higuera, Mogente, Canales, &c. as I have not the detail of the regiments composing that force. The strength of the enemy at Albayda, Adzeneta, and San Philippe, is positive and certain.

It is to be observed, that this general total of the army of Suchet, agrees very nearly with the strength of his army when he entered Valencia.

The 5th Legere, one of the regiments which escorted Madame Suchet, has returned, and is now at San Philippe.

(Signed) SAMFORD WHITTINGHAM.

Judge Advocate. The next is a memorandum taken from the wounded of the enemy, with some observations thereon, founded on documents by General Donkin.

Lieut.-Gen. Sir John Murray. General Donkin will state, in his evidence, the grounds upon which he has made out that.

The paper was read as follows :

Some Memoranda taken from the wounded of the enemy, with some observations thereon, founded on documents.

Castalla, April 14th, 1813.

The troops in the field were as follows :

1st Division (Murnier's) commanded by General de Brigade Robert.

2 Battalions, 114th.	| Taking the first 4 bat.	
2 Battalions, 1st Legere.	| at 700 each, before	
*2 Battalions (900) 3d Legere.	| the action, this will	
*2 Battalions (900) 12th line.	| give a total of.....	4,600
* Some Companies of these 4 Battalions left in garrison.		

2d Division (Harispe's).

2 Battalions, 7th line.	| Taking them also at 700 each, gives.....	4,200
2 Battalions, 116th do.		
2 Battalions, 44th do.		

3d Division (Hubert's).

2 Battalions, 14th line.	| Do. do. do.	3,060
*1 Battalion, 16th do.		
*1 Battalion, 117th do.		

* These 2 Battalions had Voltigners of absent Battalions attached to them, about 260 men.

Which makes a total of <i>Infantry</i> , exclusive of			} 11,860
the Westphalian division known to be in the			
Field.....			
Cavalry, 4th Hussars.....	400	{ In the Field }	} 1,700
Cuirassiers, 13th, 900			
24th Dragoons.....	400		
			<hr/> 13,560

13,560 French troops in the Field, exclusive of the Westphalian Division, about 1500.

The attack on the heights was made by Robert's Division.

Viz. 3d Legere stated at only.....	900
121st Line, do. do. do.	900
2d Battalion, 114th, supposed.....	1,400

Making, by the account of the wounded, } after the attack.....	3,200 Men.
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But it is known that 2 Battalions of Grenadiers also attached.

A division of Westphalian troops replaced Munier's the day it marched.

Its numbers and composition not known.

General Paris remained at St. Philippe with	
10th Line, 2 Battalions, supposed.....	1,400 strong.
20th Line, 2 Battalions, do.....	1,400
6th Legere, 2 Battalions, do.....	1,400

Making in reserve.....	4,200
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General Pannatier had arrived from Arragon with 2 regiments of infantry, and 1 of cavalry. (Note—This seems a mistake of the prisoners; these *regiments* were probably only the 2 *battalions* of the 81st regiment, which forms part of Pannatier's Command.)

Pannatier's regiment of cavalry, is the 9th Hussars, about 450 a regiment of Italian cavalry, expected; this was, probably, no more than 2 troops of the Chasseurs de Napoleon, which are in Arragon, and are about 120 strong.

Observations.

Now the result of all this is, that Marshal Suchet has at present 8 battalions more than he had when the former

list was made out, and which are not mentioned in that list. A new list is now made on the other side, and the additional battalions are marked with an † This list gives a total of 33 battalions, taking the Westphalian division at 2 battalions only.

He is also reinforced by the 9th Hussars and (supposed) by the Chasseurs de Napoleon. The infantry, after his loss at Castalla, is now taken at only 600 men per battalion, although it is known that some battalions are 750 strong.

The Cavalry is taken at the known or supposed strength.

[MEMORANDUM.]

The 11th regiment appears to have joined since.

List of Marshal Suchet's Corps now assembled before the British and Spanish Troops.

1st Legere	2 bat ^s .	effective. 1,200
3d do.	3 do.	1,800 the only Corps having 3 bat.
5th do.	2 do.	1,200
6th do.	† 2 do.	1,200 very doubtful if there be really such a Corps.
7th Line	2 do.	1,200 known to be 1500.
10th do.	† 2 do.	1,200 come from Arragon, Paris's division.
14th do.	2 do.	1,200
16th do.	2 do.	1,200
20th do.	2 do.	1,200
44th do.	2 do.	1,200
81st do.	† 2 do.	1,200 part of Pannatier's comd.
114th do.	2 do.	1,200
116th do.	2 do.	1,200
117th do.	2 do.	1,200
121st do.	2 do.	1,200

Westphalian division	} + 2 do.	1,500	{ at least 2 bat ^s . but its number have been mentioned at 1500, or thereabouts, with 250 drag ^s .

33 bats. 20,100 Men.

Deduct, known... 1,200 *for the doubtful 6th Legere.*

Remains...	18,900	{ effective infantry at least, taking each bat. at the lowest possible estimation, viz. 600.
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Cavalry as below... 2,620

General Total	21,520	{ after deducting a regt. which may possibly exist.
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Cavalry, 4th Hussars, at least	600 lately recruited.
13th Cuirassiers, do.	750
24th Dragoons, about	700 lately recruited.
9th Hussars.....	450 by their own official state.
Chassieurs de Napoleon supposed	120
Total.....	2620

I believe the above to be very near the truth.

(Signed) R. DONKIN, M. G. and Q. M. Gen.

[MEMORIAL.]

May 2d, 1813.

In the accompanying paper, the corps are taken at 600 per Battalion; this valuation, the returns found on the field at Castalla, and all other documents, prove to be too low, they are 700 each.

Take, then, the force as calculated in the inclosed list, including the 6th Legere, which appears to exist, and must, therefore, not be deducted, and we have a total as there shewn,

Of 33 Battalions equal to.....	20,100
Add to 33 Battalions, 33 hundreds, the battalions being under-rated at 600 each.....	3,300

Which gives a total of infantry of.....	23,400
Add 11th line from Catalonia (this corps is also in my former list) on Lieutenant de Battot's authority.....	1,400

Makes, total infantry.....	24,800
The Cavalry was stated at 2,620, but Suchet mentions the 12th Hussars, whose numbers are wholly unknown (say 500) this will make the Cavalry	3,100

May 2d, General Total..... 27,900

Memoranda made hereon at Vinaroz, 22d July, 1813.

Julien Joubert } 11th regt. Vinaroz, 22d July, 1813.
Louis Monlin }

Deserters from Tortosa, say the 11th regiment has 3 battalions. This corps has been nearly a year in the Kingdom of Valencia; 1st battalion was 3 months in the city of Valencia, when Joseph Buonaparte retreated; the two others were generally kept in the line from Tortosa to Saragossa; the 1st battalion now in Tortosa, has about 600 men. These men being of the 11th regiment, and in its uniform, confirms its being here beyond a doubt.

Judge Advocate. I have here a paper, put in by Sir Benjamin Hallowell, that must remain for the present; there is nothing else but the papers that were suspended, with regard to them, before the Court is cleared, I will read a paper, which General Murray has put in, containing observations tending to induce the Court to receive them. The first is the memoir of Colonel Cabanes, as to which, there is nothing to prove that the translation is a faithful one, or that the original was in the hand writing of Colonel Cabanes, it may have been written by any body else. General Murray's observation is in these words "the Memoir in question was written before I joined the army in Spain, and the copy, of which I have the honor to offer an attested translation, was sent to me by Colonel Cabanes himself, attested by himself, and given to me, with other official papers, by Colonel Adam, on his return from Catalonia."

"On reference to the Memoir of the 14th of Mareh, the Court will perceive that Colonel Cabanes refers to another Memoir, sent at the same time, the shortness of the time not permitting him to enter again into the details on which his reasoning is founded. The connection of these two memoirs, therefore, strongly marks the authenticity of the former, and in addition, my Military Secretary, Lieut.-Col. D'Aguilar, is ready to swear that the translation was made under his eye and direction." If Colonel D'Aguilar can swear that he saw the original, and that this is a faithful translation, that answers the objection.

Lieut.-Col. D'Aguilar. Most assuredly I can.

Judge Advocate. That appears to me completely to answer the objection that was made.

Lieut.-Col. D'Aguilar. I know it was a paper brought by Colonel Adam, from Catalonia, and supposed to be an original; but I cannot swear to Colonel Cabanes's hand writing, for I was not acquainted with it.

Judge Advocate. You saw a paper which purported to be the original of this?

A. Yes, it was presented by Colonel Adam, to Sir John Murray; I was then Military Secretary of the Army, and generally in charge of the Spanish Correspondence. Sir John Murray gave it to me, to make a translation; I was a great deal engaged, and I gave it to Major Steiger, and he made the translation under my eye; and I am willing to swear to his hand writing, and that, to the best of my knowledge, that is a faithful translation.

Judge Advocate. He was competent to make such a translation?

A. Yes, he was certainly.

Judge Advocate. This evidence puts this paper on a very different footing. There are some further observations as to the letter of Mr. Tupper, communicating the letter of the Duque del Parque's army. In reference to the papers from Mr. Tupper, giving an account of the means of provisioning the Spanish armies, I must observe, that although the report is itself dated after the return of the army to Alicant, it refers solely to the period when the British army was in Catalonia, I produce it merely as a confirmation of the state of the 2d and 3d Spanish armies, with which I was well acquainted, and which did influence me in all the operations then carrying on. I could not summon Mr. Tupper, without the greatest inconvenience to the Public Service; but his signature is clearly proved, and had he appeared, he could only have spoken to the state of the armies, at the period in question, and I humbly conceive, therefore, that this paper should be received as a confirmation of my opinions, nay more, of my positive belief of the state of those armies at the time. The Court should observe, this is not in the form of an army return. I have thought it proper to read this paper, put in by Sir John Murray, that Admiral Hallowell may have an opportunity of answering it, if he desires to do so.

General Sir George Beckwith. There is no evidence who Mr. Tupper was.

Lieut.-Gen. Sir John Murray. I can prove that he was Consul General. I believe Admiral Hallowell knows that.

Rear Admiral Sir B. Hallowell. I believe that at the time that was written, he was not performing the functions of Consul; I am so informed.

Lieut.-Gen. Sir John Murray. I saw him performing the functions of Consul.

Judge Advocate. It is admitted he was afterwards, but not at that period.

Lieut.-Gen. Sir John Murray. The distribution of all the supplies was left to him, by Sir Henry Wellesley, he was Consul General of that district.

Rear Admiral Sir Benjamin Hallowell. That is a statement of the force of the enemy, after we returned, I believe?

Judge Advocate. It is dated July 1814; it is a year af

terwards, but it professes to give an account of the state of the army at the period in question.

Rear Admiral Sir Benjamin Hallowell. Sir John Murray had an opportunity of knowing the state of the Duque del Parque's army ; when we were at Alicant, his instructions were, I believe, not to move till they arrived, and he did not move from Alicant, till his army was joined by the Duque del Parque.

Lieut.-Gen. Sir John Murray. I am perfectly ready to admit, that I ought to know it, and I did know it, but my evidence will not be taken ; I therefore applied to the person, who actually supplied those armies, that I might have, in corroboration, a statement of the miserable condition of those troops, and their want of the means of transport.

Judge Advocate. The objection to it is, that it is not his evidence, not being on oath, and that it is an account given by him a year afterwards.

Rear Admiral Sir Benjamin Hallowell. What is the date of it.

Judge Advocate. It is a year afterwards, it is dated July, 1814.

Rear Admiral Sir Benjamin Hallowell. Then it could not influence his judgment.

Lieut.-Gen. Sir John Murray. Not that paper certainly, but it contains facts which were within my knowledge, and which did influence my judgment.

Rear Admiral Sir Benjamin Hallowell. Mr. President, I have a right to object to that paper.

Judge Advocate. Certainly.

Rear Admiral Sir Benjamin Hallowell. I wish to give Sir John Murray every possible advantage, but I cannot allow him to go a twelvemonth after date, and particularly when his movements were regulated by a junction, with the Duque del Parque's army before he moved, I cannot permit him to avail himself of information he got 14th months afterwards.

Lieut.-Gen. Sir John Murray. I have asserted, that army was in want of the means of transport, and of subsistence ; it was in consequence of the want of these articles that they were not in a state to move from the second, when the French began to retire, till the 11th, and to corroborate that I have produced this letter from Mr. Tupper, I know the circumstance myself perfectly.

Judge Advocate. There are a few words of the return, which was put in in Spanish, which Colonel D'Aguilar has

since made out, I will just ask him whether this is a true translation.

A. It is.

Major General Donkin was called in again.

A paper was shewn to Major General Donkin.

Judge Advocate. Are you sufficiently acquainted with Mr. Ferras's hand-writing, to be able to say whether that is his hand-writing?

A. To the best of my belief it is; I have seen his signature to official papers very frequently.

Q. Have you corresponded with him?

A. No, but I had a great many official papers at that time from him.

Judge Advocate. The Court will recollect this was a paper to the translation of which General Whittingham spoke on Saturday; it is signed by Brigadier Chief of the Staff Ferras.

It was read.

Summary of the Operations of the 2d and 3d Spanish armies.

Immediately that Marshal Suchet was made acquainted with the direction of the expedition, he sent off great part of his troops to Catalonia, for which province he set out himself on the 6th instant, leaving only, in the south of the Xucar, from 6 to 7000 men, consisting of the 7th, 44th, and 116th regiments, of the division of Harispe;—the 114th and 117th regiments, and one battalion of the 16th of the division of Hubert, with about 300 of the 4th hussars.

His Excellency the Duque del Parque determined immediately to advance the line occupied by the army, its left resting upon Fuente la Higuera.

The 3d division, and cavalry of the 2d army, commanded by General Elio, was directed to attack the Fuerte de Almansa, while the 2d and 3d divisions and cavalry of the 3d army, with a squadron of the regiment of Olivenca, commanded by his Excellency in person, were to attack in front by the road of Villena.

The 1st division under the orders of the Prince of Anglona, and that of General Roche, were to make strong demonstrations upon Onteniente and Albazda, threatening their base St. Philippe, the only means of making them abandon the formidable position of Maxente.

To execute this plan, the army was put in motion on the 9th, but the enemy did not choose to await the result, but commenced his retreat the same day towards Maxente,

which was abandoned likewise on the 10th, the whole retiring to St. Philippe from whence he marched on the 11th, in the direction of Alberique and Alcira, pursued by our cavalry.

He has occupied these last points, and maintains himself, at present there, with his flanks thrown upon the bridges of Alcira, and those established by him at the Barea del Rey.

This movement of the Spanish armies, which has been effected without bloodshed, and with the loss only of one Colonel, and a Staff officer, attached to the 2d army, (made prisoners in a charge of our cavalry) has compelled the enemy to evacuate the strong line of Maxente, supported by four well-built redoubts, which we are razing, as well as all the other works found in the position he occupied.

The actual situation of the army is as follows :—

The 2d army, Head quarters, St. Philippe.

Its 3d division at Robla and Corvera ; its cavalry at Canales and Manuel ; its 4th division, under the command of General Roche, at St. Philippe.

3d army, Head quarters, St. Philippe.

1st Division	- - - - -	St. Philippe.
2d Ditto	- - - - -	Vallada.
3d Ditto	- - - - -	Puerta de Careol.
Cavalry	- - - - -	Cordá.

Brigadier and Chief of the Staff,

(Signed)

FERRAS.

Head-quarters, St. Philippe,

June 12, 1814.

Judge Advocate. I believe we are now reduced to the papers on which the Court must decide ; I do not know whether you wish Sir Benjamin to make any observations upon these two papers, the one the memoir of Colonel Cabanes.

Rear Ad. Sir B. Hallowell. I have nothing to say to that.

Judge Advocate. The other is the letter of Mr. Tupper.

Rear Ad. Sir B. Hallowell. To that I object.

President. I understand you to object on the ground of the time which had elapsed (14 months) during which the operations were going on in Catalonia.

Rear Ad. Sir B. Hallowell. Yes, Sir, I object to that on the ground, that he had the means of obtaining the information before he moved.

The Court was cleared.

After some time the Court was re-opened.

Judge Advocate. Sir John Murray, I am desired by the Court to inform you, that they admit the memoir of Colonel Cabanes to be given in evidence, you will point out those parts you wish to have read. This is dated in December, 1812.

The following extract was read :

"As the country about Tarragona is likely to be incommoded by all the French troops in Catalonia, which are not wanted for the garrisons, as well as by any body of troops which Marshal Suchet might, from time to time, detach for this effect, it would be necessary to occupy the above ground, with such forces as would force that Marshal to give up the idea of succouring the place, or to abandon a great portion of the country, which will, at that epoch, be occupied by his army, and will, probably, already be in communication with Jourdan, who is actually advancing towards the Tagus.

"The strength of these two armies may be computed at 45,000 men, (of which more than 4000 cavalry) including the garrisons of Valencia and Arragon, and those of Tortosa, Lerida, and Tarragona, in Catalonia.

"The combined armies of the South of Spain, composed of Lord Bentinck's army, and the Spanish troops attached to him, and the 2d and 3d national armies, (new regulation) already amount to nearly double those forces, and though the description of some of his corps may be inferior to that of the enemy's, still the remainder leave him a decided superiority.

"From this result, that Suchet once retired to the neighbourhood of the Ebro, as soon as the armies of the south advance efficaciously, he will not be able to detach any numerous body of troops, without exposing the remainder of his forces to be beaten.

"But what will be most important for our object will be, to become acquainted with the line of operations which Suchet will take up, when the 2d and 3d national armies, (new regulation) and the British of Lord Bentinck, oblige him to abandon the Xucar, and consequently a great part of the Kingdom of Valencia.

"Though there are some who believe that Sagunto will be the appui of the enemy's army of Arragon, it is not probable that this will be the case. The Allied armies would be able to act upon Suchet's right, and united, confine him narrowly towards the Mediterranean; what is more cer-

tain is, that Sagunto will be, like Burgos, another obstacle to retard our operations.

" If this be the case, Suchet may take either his direction to Catalonia by Tortosa, or that of Sarragossa through Terwell, all military rules indicate that he will choose the latter.

" 1st. Because, by this means he will put himself easily in communication with the corps of Jourdan, which, through the circumstance of its having separated from the troops that are on the Douro, seems to have that destination.

" 2d. Because, in this manner, he will cover Sarragossa, an important point to the French, and where they have sent their public offices, hospitals, and even the principal people (personages) of Joseph's court.

" 3d. Because, if Suchet retires towards Sarragossa, he draws nearer his magazines, which are considerable, on account of the great fertility of the Kingdom of Arragon; instead of that, should he retire upon Tortosa, he would consume very shortly the dépôts he has in that place and its vicinity, which are only sufficient for its own garrison, and a small corps which may be sent for its support.

" 4th. Because, in retiring upon Sarragossa, he covers that part of the Ebro which has no fortifications, whereas the river is on that side of Tortosa covered by that fortress, and by the strong advance he has on Alcaniz, Morella, and Peniscola, and that of Mequinenza, which is on his right flank.

" 5th. Because, by means of this line of operations, he puts himself in communication with the main body of the French forces in Spain, which he could not in any other manner; besides, he would be exposed to a body of combined troops, placing itself between the enemy's army of the north, and his own corps.

" 6th. Finally, because, that in case the French should retire, it is regular that they should collect the forces, except from the Mequinenza, towards its source, leaving their left flank (Catalonia) to follow the chance of the fortresses they have established in that province. This, at least, has been nearly the case when they were not masters of the fortresses of Catalonia; with much more reason they will do the same now, when they have much fewer troops to oppose us, cannot reckon upon large reinforcements, and are masters of the principal fortresses of that Principality.

"Besides, the scarcity of provisions, which is experienced in Catalonia by those who are not masters of the sea which washes its shores, assures us in a most incontestible manner, that the French will never send numerous armies into that Province.

"It is proved, even to evidence, that the line of operations which Suchet will choose, when he abandons the Xucar, or even after having lost Sagunto, will be the one leading by Tenuel to Saragossa ; there remains no other means by which he may impede the siege of Tarragona effectually. If he should determine to prevent it in a decided manner, he would have to abandon other places, not less important ; and in all cases the advantages would be on the side of the combined troops, but this is not probable.

"There is no doubt but that this operation must be prepared in such a manner, as to offer the most incontestible security for its results, otherwise a most valuable time, and the important co-operation of the forces, employed in that expedition, would be lost. A force of 32,000 men, of which 1300 cavalry, and a respectable battering train, are, in my idea, sufficient for this purpose."

Judge Advocate. The Court is of opinion, that the paper signed Tupper, should not be received in evidence. The Court is of opinion, that the paper, purporting to be signed by Mr. Commissary Daniel, should not be received in evidence ; the same as to the paper purporting to be a return of camp kettles ; with regard to the return of General St. Cyr, the Court is of opinion that should be received in evidence. This is a return of the Imperial army of Aragon, on the 15th of May, 1813.

It was read as follows :

ARMEE IMPERIALE D'ARRAGON.

Situation Sommaire de l' Infanterie, & de la Cavalerie au 15 Mai 1813.

Divisions and Brigades.	Regiments.	Presentes.			Emploiement.	Observations.
		Hommes.				
		Officiers.	Troupe.	Chevaux		
1 ^{re} . G ^l . Munier	{ 1 ^{re} . Leger.	32	1240		a Onteniente	La Div ^{on} . Severoie forte de quatre Battaillons et de 150 Chevaux du 1 ^{er} . Hussards Viennois d'arriver a Valence.
2 ^{de} . G ^l . Robert	{ 114 th . de ligne	31	1375		a Canales	
3 ^e . G ^l . Harispe	{ 121 ^{me} . id.	28	1301		St. Philippe	
4 ^e . B ^{de} . G ^l . Mezidop	{ 7 ^{me} . id.	34	1308		Fuente la biguera	
5 ^e . B ^{de} . G ^l . Rouelle	{ 44 ^{me} . id.	26	1168		Venta de la Valsa	
6 ^e . G ^l . Habert	{ 116 ^{me} . id.	35	1502		Moxente	
7 ^e . G ^l . Montmoir	{ 14 ^{me} . id.	44	1182		Oteniente	
8 ^e . B ^{de} . G ^l . Montmoir	{ 16 ^{me} . id.	35	1190		id and Agutiente	
9 ^e . G ^l . Gudon	{ 117 ^{me} . id.	42	1635		Adranetar	
	{ 5 ^{me} . Legere.	15	482		Segorbe	
	Total..	322	12378		{ St Filipe Fu- ente la Higu- era et Onte- niente. }	
Cavalerie	{ 4 ^{me} . de Hussards	27	653	685	{ Murviedro avec le G ^l . Pannatier. Carlets Lombay Be- nitayo and Alenetia. }	
10 ^e . Delord	{ 24 de Dragoons...	23	566	575	Carcagente.	
	13 ^{me} . de Curras.	26	481	541	{ Lombay Be- nitayo and Alenetia. }	
	Chev ^l . leg ^l . West ^l .	11	167	170	a Segorve.	
Troupes de Catalogne		87	1867	1071		
G ^l . Lamarque	{ 3 ^{me} . Leger.	16	707		a Bunol & en Co ^e .	
	{ 20 ^{me} . de Ligne...	28	834		Mobile a Segorve	
		44	1601			
		RECAPITULATION				
	Infanterie.	332	12378			
	Cavalerie.	87	1867	197		
	Troupes de Cata	44	1601			
	Total de Present	453	15846	1971		

Au. G^l. G^l. de Valence le 15 Mai, 1813.

Certifié par le Genl. de B^{de}. Baron
d'Empire Chef de L'Etat Major General.
(était Signé)

ST. CYR,
Nugues.

Judge Advocate. With regard to this paper, Sir John Murray, which you have given in with the last, it will be for you to take it in your hand, and point out the observations; that cannot be evidence.

President. This paper being in evidence, you will now point out the application of the paper, which you have drawn from it.

Lieut.-Gen. Sir John Murray. The most correct way will be, to read what I have here stated. This is simply a statement of men present, and those in the immediate vicinity of St. Philippe, where his head quarters were, with some view, either to the attack on the Allied army, or for some object with which I am not acquainted; it does not take notice of a number of corps we knew to be in the province at the time; I, therefore, thought it necessary, when the Duke of Wellington sent me this return, to add a list of such corps, as I saw were evidently omitted, and this is an additional statement of the French army.

It was read as follows:

Additional Statement of the French Army, to accompany the return of General St. Cyr, dated May 15th, 1813.

INFANTRY.

General St. Cyr states, three divisions of Infantry,	
present at.....	12378
General Lamarque's brigade.....	1601
Severole's Division, 4 battalions at 700 each.....	2800

Infantry as stated by St. Cyr..... 16779

unnoticed by St. Cyr.—

Pannatier's Division, including a moveable column,	
under Ronfort, at least.....	3000
Paris's Division, including the garrisons of Arragon,	
according to General Whittingham's report.....	6280
Garrisons in Valencia, Murviedro, Peniscola, &c...	1800

Total Infantry..... 27859

CAVALRY.

As stated by St. Cyr..... 1867

With Severole's division 12th Hussars..... 150

Unnoticed by St. Cyr.

9th Hussars, from an intercepted state,
before they were drafted into the 12th ... 450

Remains of the 12th Hussars, supposed.... 350

Total Cavalry..... 2817

Sick, wounded, and men on detachments, of the three divisions reported by St. Cyr, Artillery, &c. &c. supposed.....	2000
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Grand Total.....	32,676
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N. B. A Brigade under D'Aigremont is likewise mentioned by Marshal Suchet, as having marched to Catalonia, in June, 1813, but I know nothing further of it.

(Examined.)

George D'Aguilar,
Lieut.-Col.

Judge Advocate. The Court understand how this is received ; it is received as observations, and as part of the Defence, not as evidence. The only other paper which the Court have to determine upon, is the paper delivered in by Admiral Hallowell, the state of the army on the 17th of June, it is admitted by the Court.

It was read as follows :

State of the Allied Army commanded by Lieutenant General Sir John Murray, Baronet, at the Coll de Ballaguer, on the 17th of June, 1813.

	Officers present.						Serjeants.			Drummers.			Rank and File.				Horses.	Mules.	
	Colonels.	Lieut. Colonels.	Majors.	Captains.	Subalterns.	Staff.	Present fit for Duty.	Sick.	Command.	Total.	Present fit for Duty.	Sick.	Command.	Total.	Present fit for Duty.	Sick.			Command.	Total.
British and German Cavalry.....	..	2	2	9	17	8	53	4	..	57	10	..	10	739	12	6	757	733	..
British, Portuguese, and Sicilian Artillery.....	..	..	1	12	21	9	27	2	7	36	7	1	9	783	8	199	990	362	604
British Engineers, and Staff Corps	..	..	1	4	5	..	4	..	2	6	..	..	2	78	5	36	119	..	..
British and German Infantry....	..	9	11	64	176	60	391	49	44	484	180	9	10	7,226	830	637	8,693	..	..
Whittingham's Infantry.....	6	5	6	42	163	27	249	20	22	291	177	7	2	4,370	503	316	5,189	..	..
Sicilian Infantry.....	1	2	1	12	38	14	39	2	3	44	30	3	2	985	121	272	1,378	..	..
Total Infantry.....	7	16	18	118	383	101	679	71	69	819	387	19	14	12,581	1,454	1,225	15,260	..	..
General Total.....	7	18	22	143	426	118	763	77	78	918	404	20	17	14,181	1,479	1,466	17,126	1,095	604

A True Copy, the force of General Copons not included.

C. A. A' COURT, Lieut.-Col. Dep. Adj. Gen.

Lieut.-Gen. Sir John Murray. It agrees perfectly with what I have—that makes my numbers less than the return I have myself put in.

Captain Charles Milner called in again.

Examined by Lieutenant-General Sir John Murray.

Q. What situation did you hold in the army under my command, in Catalonia, in June, 1813?

A. I acted as Sir John Murray's Military Secretary.

Q. Did you accompany me on the morning of the 11th, and where did we go?

A. I accompanied Sir John Murray on the morning of the 11th, to Vendrills, the head-quarters of the first Spanish army.

Q. State, to the best of your recollection, what occurred that day, previous to my return to head-quarters.

A. On Sir John Murray's arrival at Vendrills, he went to General Copons's quarters, with whom he had a private interview. I remained in an anti-room, with some Spanish officers of General Copons's staff, who told me that the French had occupied Villa Franca, in considerable force; and they appeared to expect that the French would attack them that night, and that they should be obliged to retire. Sir John Murray remained about two hours with General Copons. General Copons accompanied Sir John Murray on his return, for the purpose of pointing out a position to cover Tarragona, two or three positions were looked at, but all found to be objectionable. General Copons stated to Sir John Murray, the difficulty of the two armies acting together, that his army was quite unaccustomed to act in position; and that he could not place much confidence in them, otherwise than as light troops, acting in a mountainous country. General Copons returned to Vendrills, and Sir John Murray to Tarragona.

Q. Do you recollect my sending back Captain Druitt, with an order to Lord Frederick Bentinck, after leaving Altufalla?

A. Yes, I do.

Q. State the substance of that order?

A. Sir John Murray ordered Captain Druitt to return to Lord Frederick Bentinck, who was in advance at Altufalla, to direct him to be particularly on the alert, and to place an additional picquet on the road.

Q. At what time did I return to head-quarters?

A. I did not arrive so soon as Sir John Murray; I arrived at 9, or a little after, a servant told me—

Judge Advocate. That you must not state ; what was told you, is not evidence, you do not know of your own knowledge ; the short answer is, that he returned before you.

A. Sir John Murray left me on the road at 8 o'clock ; my horse had lost a shoe, and Sir John went on before me. I should think, Sir John must have got home about half an hour before me.

Q. State to the best of your recollection, what passed on my return to head quarters ?

A. Sir John Murray sent back Lieutenant Zehnpenning, with orders to General Copons at Vendrills. Shortly afterwards, I saw Sir John Murray receive a letter, upon which he ordered me to go to General Mc Kenzie, to countermand the storming of the Fuerte Reale, and afterwards to find Admiral Hallowell and Colonel Williamson, and to tell them, that Sir John Murray wished to see them immediately ; I returned to Sir John Murray, not being able to find either the Admiral or Colonel Williamson. I told Sir John Murray, that I understood Colonel Williamson was gone up to the batteries at the Oliva ; Sir John told me, it did not signify, that he had seen both Colonel Williamson and the Admiral.

Q. When you reached General Mc Kenzie with the countermand, did you see any troops paraded, and what troops were they ?

A. There were the 10th regiment, and the 2d battalion of the Itallan Levy, they were parading at the time.

A. Did you understand for what purpose those troops were paraded ?

A. They were paraded for the storming of the Fuerte Reale, as I understood.

Q. How long after I first sent you to General Mc Kenzie, was it, that you found that Admiral Hallowell and Colonel Williamson had been with me ?

A. It was about one hour, or an hour and a half.

Q. Did you hear Admiral Hallowell make any remark, and what, upon the state of the beach, and the impracticability of disembarkation on the evening of the 2d of June ?

A. The fleet anchored before Tarragona on the 2d of June ; Sir John Murray and Admiral Hallowell went on shore in the afternoon to meet General Copons ; on their return, I heard the Admiral say, that he never remembered having seen a greater surf, and that his boat had been nearly swamped ; that it would have been impossible to

have disembarked any thing on that day, and that it would be necessary to commence the disembarkation of the troops before break of day, as the surf would be up about nine o'clock. And I also heard the Admiral say, that if it came to blow fresh, it would be impossible to have any communication with the shipping from the shore.

Q. Did you make any application to Admiral Hallowell, for an order to embark your horses, on the morning of the 12th of June, and if so, what was his answer?

A. I wrote a note to Admiral Hallowell, on the morning of the 12th of June, to ask him, if he could give me an order to embark my horse; I asked my servant upon his return, if he had brought me any answer, he told me no; that the Admiral appeared very angry, and had given him no answer. I shortly afterwards met Admiral Hallowell, and apologized for the liberty I had taken, in applying to him, when he answered me with a considerable degree of warmth: it was no time to be thinking of horses, that the men were first to be considered, and that he understood the horses were to have their throats cut.

Q. Did you make any application to me, relative to the embarkation of your horses, on the 12th of June, and if so, what was my answer?

A. In consequence of Admiral Hallowell's answer, I applied to Sir John Murray, who told me, there was no hurry, and that every thing would be embarked in time, and to send my horse down to the beach with his, at three o'clock.

Q. What ship were you on board, on the 13th of June?

A. I was on board the Malta.

Q. Do you recollect an officer reporting to Admiral Hallowell, any circumstance relating to the Bristol?

Judge Advocate. If this is to go into the question, of not landing General Donkin, I submit to the Court, that they cannot go into that.

Lieut.-Gen. Sir John Murray. I have asserted, that General Donkin was prevented, by the signal, from landing, and it is to corroborate that.

Judge Advocate. I took for granted, it was with a view to prove that; and it appears to me, it has nothing to do with the question the Court is trying; that it is going into that which may be very unpleasant to Admiral Hallowell; and that if this is admitted, it may allow of that being gone at length into.

President. Sir John Murray offers this, in support of an observation made in his defence. I would put it to the Court, whether they think it is proper to put the question?

Lieut. Gen. Sir Samuel Auchmuty. I think it has nothing to do with the Charge before the Court.

Rear Ad. Sir B. Hallowell. If any thing rests with me, I have not the slightest objection to its being put.

President. The object of the Court in resisting it, I believe, is to avoid any thing that looks like personality between the parties as much as possible. It seems it is unnecessary either to the Defence, or the Prosecution, and as it has an unpleasant tendency, it is the opinion of the Court, I believe, that it should not be received,

Lieut. Gen. the Hon. Sir Ed. Paget. It is decidedly the opinion of the Members of the Court near me, that it should not be put.

Rear Ad. Sir B. Hallowell. Perhaps the signal should be stated.

Lieut. Gen. Sir Sam. Auchmuty. We have nothing to do with it.

Lieut. Gen. Sir John Murray. In my Defence, I have stated that Admiral Hallowell's letter was dictated in a spirit of mind extremely exasperated against me, and I wish to prove what he did in consequence, and that by preventing General Donkin joining me, he interfered with the duties carried on; at the same time, I have no objection to withdraw it, if the Court thinks it is not a proper question.

Judge Advocate. If it respected the matter in Charge, I think it might be material evidence, but it was at a subsequent time.

Lieut. Gen. Sir John Murray. It was prior to the letter of the 14th of June.

Rear Ad. Sir B. Hallowell. The Charge is made against me for making the signal; I wish to know whether he may go into that, for I can prove that no signal was made for the ship to anchor.

Judge Advocate. It is stated in the Defence, on the one hand, and it will be denied in reply on the other, and there it may rest, but if evidence is admitted on one side, it opens to evidence on the other.

President. I understand the wish of the Court to be, to decline putting the question.

Lieut. Gen. Sir John Murray. I will withdraw the ques-

tion, I only wished to prove the order being given by the Admiral for the signal to be made.

Judge Advocate. If the question is withdrawn, nothing appears upon the subject on the proceedings, or do the Court wish to have the offer of it upon the minutes.

Lieut. Gen. Sir John Murray. I should wish the offer of the question to appear.

Rear Ad. Sir B. Hallowell. I am ready to bring forward the Officer, who kept the log, to prove that no such signal was made.

President. You will be at liberty in your reply, to state that which you please upon the subject.

Rear Ad. Sir B. Hallowell. I only wish to say, I have offered my proof.

Lieut. Gen. Sir John Murray. (to Captain Milner.) Did you carry any orders to General Mc Kenzie, on the 15th, and if so, what were those orders, and at what time.

A. Sir John Murray sent me to General Mc Kenzie, soon after the break of day, on the 15th, with orders for his division to advance to Bandillos, where he would probably find the Enemy, and he was to attack them if he did not find them too strong. I saw General Mc Kenzie move off, before I came away.

Q. Have you any means of knowing, that my dispatch of the 14th to the Duke of Wellington was written in a great hurry?

A. Sir John Murray's dispatch certainly was written in a very great hurry. He only just came on board when Admiral Hallowell was going to send off, and there was not time to copy the dispatch.

Q. Did you hear Admiral Hallowell in the course of that morning, say any thing on the subject of sending a dispatch?

A. I saw Admiral Hallowell bring a letter out of his after cabin to seal, and all I heard him say was, that he hoped to get it off before that damned fellow came back.

Q. Whom did you understand the Admiral meant by that expression.

A. I conceived he meant the Commander in Chief.

Judge Advocate. Sir John Murray?

A. Yes.

President. It is three o'clock, we must proceed with this examination to-morrow morning.

Adjourned to to-morrow morning, ten o'clock.

TENTH DAY.

Tuesday, 31st January, 1815.

The Court met pursuant to adjournment
Captain Charles Milner called in again.

Examined by Lieut. Gen. Sir John Murray.

Q. Do you remember my entering the cabin of the Malta on the morning of the 14th, and if so state what passed?

A. I remember Sir John Murray entering the cabin shortly after the Admiral had sealed the letter, which he was about to send off. Sir John Murray asked the Admiral if he was going to send any thing off; he said he was going to send Captain Carroll off in the Hyacinth, if he had any thing to send.

Q. Do you recollect my giving you any dispatch to copy, and taking it from you before the copy was completed?

A. Sir John Murray gave me a dispatch to copy, and very shortly afterwards took it from me, saying, there was not time to have it copied.

Q. What did I then do with my dispatch?

A. Sir John Murray took it from me, and took it into the after cabin.

Q. Was Admiral Hallowell in the after cabin at that time?

A. To the best of my belief he was.

Q. Do you know how long after I came on board it was that my dispatch was sent off from the Malta?

A. It was ready to be sent off I should think in half an hour; I did not see it sent off.

Rear Ad. Sir B. Hallowell. I wish to ask the Court, whether there would be any impropriety in my requesting the evidence Captain Milner has given to be read to him, before I begin my cross examination; that he may be upon his guard; I do not wish to take any advantage of Captain Milner; but I wish to put him upon his guard before I commence my cross examination.

Captain Milner. I remember perfectly what I have said.
Judge Advocate. Captain Milner says he does not wish it; if there is any particular part you wish to have read you may point it out.

Rear Ad. Sir B. Hallowell. No; certainly not, if he is perfectly satisfied with his evidence, I am.

Cross-examined by Rear Ad. Sir B. Hallowell.

Q. Did you keep any diary of the proceedings of which you spoke yesterday?

A. I kept a general journal during the whole Campaign, not particularly of that I spoke of yesterday?

Q. Do you think at the distant period of 18 months you can speak with accuracy as to particular dates and expressions?

A. I may not be able to speak with particular accuracy with respect to dates; but I can speak with accuracy respecting the particular dates about the time the Siege was raised; and, I do think I can speak with accuracy as to the Admiral's expressions at that period.

A. At what hour did the fleet anchor in Tarragona Bay, on the 2d of June?

A. I cannot state the exact hour, but I should think it was about 12 o'clock at noon; it was considerably before the Admiral's dinner hour.

Q. Do you recollect at what time Sir John Murray, Col. Cabanes, and myself, went on shore?

A. It was soon after the Admiral's dinner.

Rear Ad. Sir B. Hallowell. That is no answer to my question, I wish the hour; I might dine at 2 or 6.

A. The Admiral dined at 4 o'clock—I should think they went on shore a little after 5 o'clock.

Q. Do you recollect at what time we returned, and whether it was dark or not?

A. It was dusk when the Admiral returned.

Q. Upon recollection, are you sure that I stated "*That I never saw a greater surf in my life,*" when you must know, that I landed with Sir John Murray and Colonel Cabanes, in my four-oared gig, that General Copons came off in a boat belonging to the Fame, that Colonel Cabanes came off in a boat belonging to a gun-boat, before we landed, and that my boat put General Copons and Colonel Cabanes on shore, after their conference with Sir John Murray.

A. I do not know that the Admiral went on shore in his gig, I have no doubt that he did, but I am certain, that the expressions I have mentioned, were nearly those that were made use of by the Admiral on his return; the expression I used, was not, as stated in the question, "*a greater surf in my life,*" but only "*a greater surf.*"

Q. You have stated, that Sir John Murray's letter was written in a great hurry, that he only came on board as I was going to send the vessel away, and that there was no time

to copy the dispatch. Do you recollect where Sir John Murray slept on the night of the 13th of June, 1813?

A. I rather think he slept on board the Malta, but went on shore early in the morning.

Q. Where did you sleep on the night of the 13th of June?

A. I slept on board the Malta.

Q. At what time of the day did you see me come out of my cabin with a letter in my hand?

A. I should think it was about ten o'clock in the morning.

Q. Where did Sir John Murray write his letter to the Duke of Wellington?

A. He wrote it on board the Malta.

Rear Ad. Sir B. Hallowell. May I beg the favor of that letter being shewn to the witness—the letter to Lord Wellington?

Judge Advocate. It may be proper for me to mention, that there are two letters of the 14th of June, the official letter, and a short letter sent with it.

Rear Ad. Sir B. Hallowell. I mean the official letter.

The Letter was shewn to the Witness.

Q. Having seen the dispatch of the 14th of June, in whose hand-writing is the body of that letter?

A. That letter was written by me.

Q. You have stated, that no copy was taken, do you mean the Court to understand, that the letter which was sent, and which is now before the Court, was the first rough sketch that was written, or was it transcribed from the rough?

A. It was written from Sir John Murray's original dispatch, and there was not time to have it copied in the book, as Sir J. Murray took it from me before there was time to have it copied.

Q. To whom were Sir J. Murray's dispatches delivered?

A. I suppose Sir John Murray delivered his dispatches to the Admiral, to send off, but I cannot say whether he did or not.

Judge Advocate. You must confine yourself to what you know yourself.

A. I do not know the fact.

Q. At what time were Sir John Murray's dispatches closed?

A. I should think about eleven, or a little after eleven, but I cannot speak positively as to the time.

Q. Do you know at what hour the Hyacinth sailed?

A. I understood that the Admiral was going to send her

off immediately, the Admiral never stated exactly the hour that he was going to send her off.

Rear Ad. Sir B. Hallowell. That is no answer to my question; at what hour did she sail?

A. I do not know.

Rear Ad. Sir B. Hallowell. You were on deck, and saw the Hyacinth sail, therefore, if you can state other facts with certainty, as to the hour, you might state that.

A. No; I must beg the Admiral's pardon, I was not on deck, and did not see her sail.

Judge Advocate. Did you take a passage from Ballaguer to Alicant, in the Thames, with Sir John Murray?

A. I did.

Rear Ad. Sir B. Hallowell. May I beg the favour of the letter from Captain Sharpe, which lies upon the table, being shewn to Captain Milner?

It was shewn to the witness.

Rear Ad. Sir B. Hallowell. I wish to ask the witness whether he has ever seen that letter; I believe, Mr. Judge Advocate, it appears by the statement of Sir John Murray, that I delivered that letter to him on the night of the embarkation at Tarragona?

Judge Advocate. I think that was another paper.

Lieut.-Gen. Sir John Murray. It was the letter of Colonel Prevost; I never stated that the Admiral brought me that letter.

Rear Ad. Sir B. Hallowell. May I ask how that appears upon the minutes.

Judge Advocate. It was proved to be the hand-writing of Captain Sharpe; it was put in by General Murray, as part of the intelligence he received.

Rear Ad. Sir B. Hallowell. I understood that Sir John Murray stated I brought him that letter; I looked at the first line, and did not recollect having seen it; if the witness has not seen that letter, I have no question to ask upon it.

A. I think I have seen it, but I have not read it.

Judge Advocate. It appears that Captain Sharpe proved this letter as having been written by him, and forwarded, but there was no date of its receipt I believe.

Lieut.-Gen. Sir John Murray. It was Colonel Prevost's letter which I stated to have been brought me by the Admiral.

Rear Ad. Sir B. Hallowell. I have no question to put upon it then,

Re-examined by Lieut-Gen. Sir John Murray.

Q. Did I go on shore immediately after my dispatch was closed on the 14th of June?

A. Sir John Murray went on shore shortly after his dispatch had been written.

Captain Druitt called in again.

Examined by Lieutenant-General Sir John Murray.

Q. What situation did you hold in the army under Sir John Murray's command, in Catalonia, in June, 1813?

A. I was Aid-de-Camp to Sir John Murray.

Q. Were you present at an interview between Colonel Manso and Sir John Murray, on the 10th of June?

A. I was.

Q. What information did Colonel Manso give Sir John Murray?

A. Colonel Manso stated, that the enemy's column advancing from Barcelona, was 9000 strong, and that it would, most probably, be increased to 11,000, from their garrisons.

Q. Did you accompany me on the morning of the 11th, and if so, where did we go?

A. I accompanied Sir John Murray as far as Torradembara; Sir John Murray went from thence to have an interview with the Spanish General Copons, at Vendrills.

Q. State, to the best of your recollection, what occurred that day, previous to my return to head-quarters?

A. Sir John Murray left head-quarters about five in the morning, desiring General Clinton to take the command during his absence—Sir John Murray took the road to Vendrills. On arriving at Torradembara, he ordered me to stop there to refresh my horse, and be ready to take back any orders he might send to General Clinton. About five o'clock in the evening, Sir John Murray returned to Torradembara, and on passing Altufalla, a town about a mile nearer, I think, to Tarragona, Sir John Murray had some conversation with Lord Frederick Bentinck, who had arrived with the cavalry. On leaving the town, Sir John Murray desired me to go back to his Lords' ip, and tell him to keep a good look out, and to put a strong picquet on the road. At about 8 o'clock, on passing the Oliva, I met General Clinton, who enquired for the Commander of the Forces, I told him I supposed he had taken another road, as I had not been able to overtake him after he had dispatched me with the orders to Lord Frederick Bentinck. I returned to head-quarters a little after nine o'clock, and found Sir John Murray had arrived a few minutes before me.

Judge Advocate. You have not stated whether you delivered the orders to Lord Frederick Bentinck.

A. I did actually ; I went back and delivered them, as I was desired, in the presence of his Brigade Major.

Lieut.-Gen. Sir John Murray. State, to the best of your recollection, what passed after my return to head-quarters.

A. About a quarter before ten, Sir John Murray desired me to find the Commanding Officer of Engineers, and to bring him to head-quarters. I remained about an hour in search of him, without being able to find him. On going back to head-quarters, Sir John Murray gave me an order to take to the Commissary-General, at La Canouza, a village about a mile and a half from head-quarters ; I returned after twelve o'clock.

General Nicholls. Was it a written order to the Commissary, or a verbal one ?

A. It was a letter ; I delivered it.

Lieutenant-General Sir John Murray. When you returned to head-quarters, not being able to find the Commanding Officer of Engineers, did you understand that Officer had already been with me.

A. No, I did not ; I heard he had not come ; Sir John Murray told me, he had sent other officers in search of him, and desired me to take the order to the Commissary General.

Q. Were you on board the Malta, on the morning of the 14th of June, and how were you occupied ?

A. I was on board the Malta, on the morning of the 14th ; Sir John Murray gave me a dispatch to copy, along with Captain Milner, his Military Secretary,

Judge Advocate. You have only stated what you were directed to do, not what you did ?

A. I was occupied in copying the dispatch.

Lieut.-Gen. Sir John Murray. Do you recollect my taking my dispatch from you and Captain Milner, while you were copying it, and before your copy was completed ?

A. Yes, I do recollect it.

Q. What did I then do with my dispatch ?

A. Sir John Murray took his dispatch into Admiral Hallowell's inner cabin.

Q. Have you any reason for supposing Admiral Hallowell to have been, at that time, in his inner cabin ?

A. Yes, I have ; I saw him there a short time before, when the door was opened.

Rear Admiral Sir Benjamin Hallowell. I wish Captain Druitt to see the letter to Lord Wellington, which was shewn to Captain Milner.

It was shewn to the witness.

Cross-examined by Rear Admiral Sir Benjamin Hallowell.

Q. You know that letter?

A. Yes, I do.

Q. Was that dispatch, which you were desired to copy, the one which is now on the table, dated the 14th of June, addressed to Lord Wellington?

A. It was.

Q. Was the copy of it, at any time, completed?

A. I do not recollect having completed it; I do not recollect Sir John Murray's returning it to me.

Judge Advocate. The question is not confined to yourself, but, whether you know of its having been completed?

A. I do not recollect that it was.

Rear Admiral Sir Benjamin Hallowell. Did you make any minute of the conversation between Colonel Manso and Sir John Murray, which you have now stated, or do you trust to your memory?

A. I did not make any minute, but I recollect the circumstance perfectly well.

Re-examined by Lieutenant-General Sir John Murray.

Q. Did you not interpret that conversation for me?

A. I did.

Rear Admiral Sir Benjamin Hallowell. I will take this opportunity of mentioning to the Court, that, upon examining my signal-log minutely last night, I find the signal for the Bristol to anchor on that day, appeared on the log; I will explain the circumstance to the Court, when I come to reply.

Lieut.-Colonel Thomas Kenah called in again.

Examined by Lieutenant-General Sir John Murray.

Q. What situation did you hold in the army under my command in Catalonia, in June, 1813?

A. I was Assistant-Adjutant-General, in charge of the department.

Q. Were any orders issued on the 2d of June, for the disembarkation of any part of the army, and was that order afterwards countermanded?

A. Arrangements were made on our arrival in the Bay of Tarragona, for landing Colonel Adam's corps, and the troops were in the boats for that purpose, but the disembarkation did not take place.

President. The order being countermanded, I suppose you mean?

A. Yes, the order being countermanded, of course, as I believe, the fact speaks for itself.

Judge Advocate. Not necessarily so, it might be from other causes; if you know of the order being countermanded, you should state that?

A. The order was countermanded.

Lieutenant-General Sir John Murray. Do you know why the order was countermanded?

A. I understood that it was in consequence of a surf on the beach, which would not permit it.

Q. Were dispositions made, and orders given for the assault of the Fuerte Reale, on the evening of the 11th of June?

A. On the morning of the 11th of June, Sir John Murray —

Judge Advocate. The question respects the evening of the 11th of June?

A. Then I will answer the question shortly—Yes, there were.

Lieut.-Gen. Sir John Murray. When, and by whom, were those dispositions made, and when, and by whom, were the orders given?

A. The dispositions were made in the early part of the day, by Lieutenant-General Clinton; the orders were given to General Clinton, by Sir John Murray, early in the morning, previous to his leaving head-quarters.

Q. Do you know whether those orders were countermanded, and if so, when, and by whom?

A. The orders were countermanded by Sir John Murray, between nine and ten o'clock, on the night of the 11th.

Q. Were you dispatched, on the evening of the 11th, with any orders relating to the raising of the siege?

A. I was dispatched, late in the evening, I should think at eleven o'clock, with orders to find the Admiral, and the Commanding Officer of Artillery, and to communicate to them, Sir John Murray's intention of raising the siege, and he wished to see them at head-quarters.

Q. Did you find the Admiral and the Commanding Officer of Artillery, and at what time?

A. I think I found the Admiral on the beach in a tent which he had, probably in ten minutes, or a quarter of an hour after Sir John Murray had given me the order; I do not recollect whether I saw the Commanding Officer of Artillery, at that time.

Q. When you were sent with the order, had I any Staff Officers with me?

A. I do not recollect that you had; indeed, I am certain, almost, that you had not.

Q. Do you remember Admiral Hallowell and Colonel Adam coming to my quarters on the morning of the 12th?

A. Yes, I do recollect seeing them there.

Q. Did I give you any orders on that occasion, and if so, state the substance of those orders, and what passed in consequence?

A. Sir John Murray called me, and told me there was some mistake respecting orders which had been given to General Clinton, as to the spiking of the guns in the batteries, and desired me to go to General Clinton with orders, that the guns should not be spiked till further directions had been communicated to him to that effect. I in consequence went to General Clinton, and delivered the order. Shortly after leaving General Clinton, I met Major General Smith, and whilst in conversation with him, we observed the officer and the artillerymen running from the battery on the Oliva. General Smith and myself immediately went towards the officer, to ascertain the reason of his leaving the battery, who informed us, that it was in consequence of a signal which had been made to him by General Clinton, which signal had been previously agreed upon between them.

Q. Were the orders given, and the embarkation conducted with regularity on the 12th of June?

A. Yes.

Q. Did you observe any disorder or confusion that could bear the construction of being discreditable or disgraceful to the service?

A. None whatever; the embarkation was conducted with every possible regularity as far as came within my observation.

Q. At what time were the orders given for the embarkation of the army, on the day of the 17th?

A. The orders were given in the early part of the day as far as I can recollect.

Q. Had Sir Edward Pellew's fleet, with Lord William Bentinck on board, then arrived in sight?

A. No.

Q. Was the embarkation previously ordered by me, carried into execution by Lord William Bentinck?

A. Lord William Bentinck arrived on the evening of the 17th, and the embarkation commenced on the following morning.

Judge Advocate. The next question put in by Sir John Murray, is in order to substantiate that part of the Defence, as to the signal supposed to be made by the Admiral on the

arrival of Lord William Bentinck; the Court doubt whether that is a part of the Case that they ought to go into, it does not appear to me to be any part of the transaction which is made matter of Charge; I would just mention another circumstance, that upon the face of the question it is taken that the witness is not supposed to know it himself, but it is that which he is supposed to have heard from another, so that it would not be evidence.

Lieut.-Gen. Sir John Murray. I only wish to shew it was a subject of perfect notoriety; I have advanced in my statement that that signal was made, and the Court must be aware, it is very necessary for me to offer my proof; it will rest with the Court whether the question shall be put, but I feel it proper to do it, to mark the spirit of Admiral Hallowell's proceedings.

President. It is very much the wish of the Court, that on neither side there should be any thing introduced which can become personal; and, indeed, it is the determination of the Court to prevent it; I think I can understand from the Court, that this should not be gone into.

Lieutenant-General Montessor. It being also foreign to the Charge.

Lieut.-Gen. Sir John Murray. I shall withdraw it with the greatest pleasure; all I have done, was to offer it for the decision of the Court.

Rear Ad. Sir B. Hallowell. Mr. President, I have no objection to any thing of the sort being brought forward; but I would submit to the Court, whether the signal I made, if I did make such signal on the 17th of June, could affect the operations before Tarragona on the 12th of June?

President. I believe, the Court feel fully impressed with that idea, Admiral Hallowell, that it could not, of course, affect the operations on the 12th of June, and it is not with that view that it is offered.

Judge Advocate. I have made this note, that the next question put in, was to substantiate that part of the Defence, as to the signal supposed to be made by the Admiral on the arrival of Lord William Bentinck; but the Court thinking this had nothing to do with the Case, which they had to try, determined that the question should not be put.

Cross-Examined by Rear Admiral Sir B. Hallowell.

Rear Adm. Sir B. Hallowell. I do not wish to impeach the evidence of Col. Kenah at all, but I do not think he has spoken positively to his seeing me on the beach.

A. I think it was in the tent that I saw you.

Rear Adm. Sir B. Hallowell. I wish the witness to recollect himself a little, before he lets that stand upon record, I do not think it of much consequence; but I never was there.

General Harris. The witness speaks doubtfully.

President. If you will put a question upon that, you may draw the fact to the witness's recollection.

Rear Ad. Sir B. Hallowell. I do not wish to impeach the evidence of Colonel Kenah at all; but, perhaps, it may save trouble if I state to the Court where I was; I was from 7 till 12 in the batteries.

A. I think you were in bed when I called, if I am not inaccurate

Judge Advocate. In your reply you may make any observations that you please, they should come rather than in the examination of the witness.

Rear Ad Sir B. Hallowell. Do you mean to say positively, that you saw me on the beach on the night of the 11th, about 11 o'clock?

A. I think I gave for answer that I was not quite certain, as to the hour, it must have been after 11, but I still think I saw the Admiral.

Q. As you were in the Adjutant-General's-Office during the whole time the army was in Spain, was it not the inviolable rule with me to send to your department, to give timely notice of any ship's departure, that the letters of the army might be ready before she sailed.

A. That generally was the case.

Q. Were we not in the midst of the embarkation on the 17th, when the fleet appeared.

A. I do believe the embarkation was going on, at least the embarkation of horses.

Captain Walter Jacks, of the 20th Light Dragoons, sworn.

Examined by Lieutenant-General Sir John Murray.

Q. In what capacity did you serve in the army under my command, in Catalonia; in June, 1813?

A. I commanded the Foreign Hussars, with the advance of the army under Colonel Adam.

Q. Where were you situated on the morning of the 12th of June?

A. At Valles.

Q. Did you receive any orders, and at what hour that morning?

A. I received an order to prepare for marching at about half-past 2 o'clock in the morning.

Q. Relate what occurred within your own knowledge on the 12th of June?

A. The advance marched from Valles about half-past three or four o'clock, as nearly as I can recollect, and reached Tarragona, I think, at about 10 o'clock; we halted in the rear of Tarragona till the afternoon, we then marched to Salou, where we were to embark; the infantry were embarked, and I received an order, from Colonel Adam, to proceed to Ballaguer immediately, and to take in charge 4 guns. On my march to Ballaguer I met an orderly of the Brunswick hussars: he asked me if I could direct him where to find the Lieutenant General commanding, as he had dispatches from Lieutenant Colonel Prevost at Ballaguer. I told him, most probably, on the beach, as the troops were embarking. I enquired of him if he had heard any thing of the enemy in the direction of Ballaguer, he said, that before he left Ballaguer the enemy were marching round the mountains, and had turned the fort: shortly after I perceived several fires on the heights, on the right, leading to Ballaguer: and from some Spanish soldiers, whom I met marching, I was informed they were the fires of the enemy. I arrived at Hospitalit about 1 o'clock in the morning of the 13th. I reported myself to Colonel Lord Frederick Bentinck, who commanded the cavalry brigade, and was desired by him to remain there.

Q. When you say the infantry were embarked at Salou, what infantry do you mean?

A. The infantry of the advance.

Q. Were not the fires in the mountains, as nearly as you could perceive, about the village or the Pass of Bandallos, and considerably on the right of the road to Ballaguer from Salou?

A. They were considerably on the right of the road, and I should think they were somewhere in that direction.

Q. Do you know of any part of the cavalry of the Allied army having been engaged with the enemy on the morning of the 13th?

A. A serjeant's patrol was sent out from the cavalry brigade before day-break on the morning of the 13th, on the road towards the mountains, towards the rear of Hospitalit; on his return he stated, that he had fallen in with the enemy, who had fired on him and wounded one man. There was also a subaltern's picquet either on the 13th or 14th, I cannot charge my memory which, but I believe it was the

13th, stationed in the neighbourhood of Bandillos, when they were attacked by the enemy's cavalry, and some men were wounded on both sides.

Q. Do you know of any other picquet of the Allied army having been attacked on the morning of the 14th and obliged to retreat?

A. On the 14th a picquet of cavalry was obliged, by the enemy, to fall back into the plain of Hospitalit.

Q. What was the consequence?

A. The cavalry brigade turned out to support them, and some infantry were ordered up to the heights which the enemy had got possession of; they had also some men in the defile, and had some men in the plains, skirmishing with the picquets.

Q. Did you command the cavalry picquet on the night of the 14th?

A. I commanded the cavalry outlying picquet on the night of the 14th.

Q. Did you receive any orders in the course of the night of the 14th, and if so, what were those orders, and from whom did you receive them?

A. I received an order from Lord Frederick Bentinck in the early part of the night, I cannot say exactly the time, to march at day break in the morning to find out the enemy. That a light company would be sent to cover my flanks through the enclosed country.

Q. Relate what occurred in consequence of those orders?

A. I marched as soon as the light company arrived, which was about day break on the 15th, and, after I had proceeded about three quarters of a mile from the plain, I discovered a picquet of the enemy's infantry, and shortly afterwards another of cavalry. They fell back on our approach, and we drove in their picquets from two small villages, and came in sight of their main body, bivouaced in front of Bandillos.

Q. Upon discovering the enemy, did you give any intelligence of it, and to whom?

A. I sent an orderly to Lord Frederick Bentinck, to say we had fallen in with the enemy's picquets.

Q. Do you remember to have seen me that morning?

A. I remember Sir John Murray came up, as the enemy's picquet were going out of the last village which they had possession of.

Q. Relate what passed on my arrival at your post.

A. Sir John Murray requested me to go forward and reconnoitre the enemy; I went close up to Bandillos, and

returned to him, and told him that I thought the enemy were about 3000 men—he desired me to go forward a second time and gain some information, and to look at the enemy again. On my return to him, I told him I thought they were about the number I had before stated, and that, from the peasants, whom I questioned at a village near Bandillos, I received information, that the preceding evening the enemy had occupied all those villages, and the road towards the plain, with 9000 men. One of those men stated himself to be the Alcalde of the village; I believe General Mc Kenzie was present when I reported this last to Sir John, but I am not quite certain.

Q. On your advance through the Pass to Bandillos, did you see any considerable bivouacs, in which it would appear the enemy had passed the night?

A. Yes.

Q. Have you any reason to know that the French army, in the month of July, passed and repassed the road between Vendrills and Altufalla, in spite of gun-boats stationed near the shore?

A. In the month of July, I think the 4th or 5th, a column of the enemy, consisting of cavalry and infantry, did pass that road.

Lieut. Gen. Sir John Murray. I believe there is a mistake in the question, it should be August.

A. I speak of the time when Lord William Bentinck commanded the army, it was when the advance was stationed at Altufalla that the circumstance happened; I will not be certain as to the date, they passed the road and attacked our advance at Altufalla; on recollection, I think it was in August, I know it was after Lord William Bentinck marched up and invested Tarragona, and when we were covering the Barcelona road, the enemy were driven back by the cavalry, and the infantry remained at Torradembara the whole of the night, and returned to Vendrills at day-break in the morning.

Judge Advocate. There is no answer as to the gun-boats?

A. There were ships of war, a bomb vessel, and one or two brigs and sloops of war, at that time at anchor off Torradembara.

Lieut. Gen. Sir John Murray. Did the ships and gun-boats at anchor fire on the enemy during their march?

A. No.

Q. Have you any reason to believe, that the fire of gun-

boats stopped the whole French army in the same position at any other time ?

A. Before Lord William Bentinck broke up the blockade, a column of the enemy marched towards that road ; the ships of war and gun boats fired at them, the gun-boats directed their fire principally against a white house on the beach, where Marshal Suchet was ; he left the house soon afterwards, whether it was in consequence of their fire I cannot say, the enemy made no attempt to push forwards beyond our videttes, which were considerably in advance of our picquets ; and, from what I could perceive, the shot from the gun-vessels had not done any harm amongst them, they went into bivouac at a village near Cressels, and remained there the whole of the afternoon.

Q. Have you not been frequently employed in the advance upon the different roads leading from Villa Franca to Tarragona ?

A. Yes, in posting picquets to cover the roads.

Q. Supposing the enemy wished to avoid a fire of gun-boats on the exposed part of the road between Vendrills and Torradembara, could he not avoid it by a short detour ?

A. There are several roads round by the hills, I think two or three, out of the fire of the gun-boats.

Cross-examined by Rear Ad. Sir B. Hallowell.

Q. Do you mean to say, that there were two days on which the ships fired on the enemy's column in August, which was during the time Lord William Bentinck commanded before Tarragona ?

A. Only one day on which I was present.

Rear Ad. Sir B. Hallowell. I had understood the witness to have spoken on two occasions on which the enemy attempted to pass.

The Judge Advocate read over the evidence.

Lieut. Gen. Sir John Murray. He stated that on the first occasion the ships and gun-boats did not fire.

Judge Advocate. There is nothing inconsistent in the evidence as it stands.

Rear Ad. Sir B. Hallowell. I will put another question to clear it up. Do you mean to say your cavalry and infantry picquets of the advance stopped the column of the enemy, which Suchet commanded, without the assistance of the Volcano bomb, and other gun-boats, and boats of the ships ?

A. It did not appear to me as if the enemy had any intention of passing that day, as they did not drive in our out-posts.

Q. Do you not know, that that same column was obliged to go round by another road before it came to Tarragona ?

A. I believe it must have gone by another road, or it must have marched upon the main road, after the advance fell back on the following day.

Q. Cannot you state positively, that the column of the enemy did not march by the same road, when you know that the Malta and the Royal George anchored in the evening to cover the road, and that the advance halted by the bridge, to the eastward of Tarragona ?

A. I believe the question I first answered, related to what passed in the front of Altufalla ; this I perceive relates to what passed in the rear of Altufalla ; it was in the rear of Altufalla that the Malta anchored.

President. Further from Tarragona ?

A. No, nearer to Tarragona.

Rear Ad. Sir B. Hallowell. I do not think that is an answer to my question, by any means.

A. I do not know that they did march by the main road, or by the mountain road, I did not see them march.

Judge Advocate. The question is, whether you do not know that they could not have gone by the main road ?

A. It would be impossible for me to say whether the column could march that road, as I did not see them march either road.

Judge Advocate. The question is, whether you do not know from these facts, that they must have gone another road, for that they could not have gone by this road.

A. I should think that troops might march any where in that direction, without the fire of the ships doing much damage.

President. Perhaps the question might be put in a clearer way, for it assumes a knowledge.

Lieut. Gen. the Honourable H. G. Grey. With such ships covering that road, could they march along that road ?

A. I should think they might have passed. The infantry, by going into the inclosures, and the cavalry by trotting fast. I have passed the fire of Tarragona myself, with Lord W. Bentinck, and 60 hussars in point blank.

Lieut. Gen. the Hon. H. G. Grey. Trotting fast ?

A. No, walking.

Rear Ad. Sir B. Hallowell. As the advance halted on the high road, was it possible for the enemy to have come by that road, without your seeing them ?

A. I should think not ; but as I have already said before, we fell back on the following day, and the enemy might have come then.

Rear Ad. Sir B. Hallowell. I beg to warn Captain Jacks, to prevent his committing an error ; the night of the firing of the boats, you must recollect, you fell back that same night.

A. We fell back I know, we always fell back in the evening ; it was our custom to fall back to the rear of all the roads.

Judge Advocate. If there is any thing you wish to clear up, you had better put a question upon it ?

A. To the best of my recollection, after the fire of the gun-boats on that day, we came up the next morning.

President. Did you fall back that evening ?

A. We fell back every evening.

Q. And advanced again the next day ?

A. And advanced again, I think, the next morning, to Altufalla. I was sent up by Colonel Adam, to some heights, to see where the enemy were.

Q. And you fell back on the evening of the second day ?

A. Yes, we fell back, I think, about two or three o'clock on the second day, I am certain almost of the fact.

Rear Admiral Sir B. Hallowell. Captain Jacks, I could bring three or four witnesses, which is my reason for putting you upon your guard ; if you persist, I shall be obliged to do it. I will repeat the circumstance, to bring it to your recollection.

President. You do right to bring it to his recollection, if he is in an error.

Rear Admiral Sir B. Hallowell. I heard the firing, I immediately got under weigh in the Malta, and ran down—on my way down, I met the *Royal George*, coming with 800 marines from the fleet, they had driven back the enemy, who were firing musquetry on our boats. I went on shore to Colonel Adam, and asked whether I could be of any assistance with those marines ; and he said no, his orders were to fall back, and he fell back immediately.

Judge Advocate. The only difficulty about this is, that you are telling this witness what you shall prove by other witnesses.

Rear Admiral Sir B. Hallowell. I immediately got under weigh, upon Colonel Adam saying this. Do you know that ships can be within less than musket shot of that road, by

which you say an army can pass, and that there is nothing to cover them for a great distance?

Captain Jacks. What part of the road is meant?

Rear Admiral Sir B. Hallowell. The great road that he says an army could pass.

A. There are so many roads.

Rear Admiral Sir B. Hallowell. The great road that he has just stated an army could pass—the Court will judge whether an army could pass under the fire of an 80 gun ship.

A. There is one part of the road where the ships can anchor, certainly, very close, that is only at the bridge; the road is on elevated ground, the bridge is built on high arches. I am not acquainted with the anchoring of vessels, and naval matters, and, therefore, cannot give a more precise answer.

Q. Is not great part of the road, from the bridge you have mentioned, and to the eastward of Torradembara, within musket shot of the beach?

A. I should think it was not.

Q. Was the advance under Colonel Adam ever attacked in Altufalla?

A. Yes.

Q. In Altufalla?

A. Not actually in the town of Altufalla, but the enemy were at the edge of the town; the enemy's cavalry drove in the cavalry picquets, and passed between the infantry picquets, which were stationed on two high banks on each side of the road, the infantry fired upon them, both in passing and returning, this was within two or three hundred yards, they did not go into the town.

Captain Alexander Renton Sharpe called in again.

Examined by Lieut.-Gen. Sir John Murray.

Q. What is your rank and station in His Majesty's service?

A. Captain of His Majesty's ship Hyacinth.

Q. Were you stationed off the eastern coast of Spain, in June, 1813?

A. I was stationed off Valencia.

Q. Had you any, and what intelligence, of the enemy's movements from Valencia towards Catalonia, at that time?

A. I had information, on the evening of the 9th, that the enemy were moving towards Catalonia; on the 10th, I communicated with a schooner at Murviedro, on board of which

were five or six Spanish peasants; and from them, I learnt that the French force consisted of between 9 and 10,000 infantry, and 1000 or 1100 cavalry, that the last division of the French army had quitted Castalla de la Plana, at 2 o'clock on the 8th, consisting of about 2000 infantry, and 3 or 400 cavalry. That Marshal Suchet, in person, had quitted Castalla de la Plana, at ten o'clock, on the night of the 8th.

Q. Had you been previously acquainted with the peasants, and could you depend upon their story?

A. With one I was acquainted, being a Guerilla belonging to the corps of Nebot, having had intercourse with him when in company with the Termagant, employed in landing arms and ammunition.

Q. Did you communicate this intelligence to me, or to any other person?

A. I communicated the information received on the evening of the 9th, to Sir Benjamin Hallowell, by a Gibraltar smuggler. The information received on the 10th, I dispatched by the Buzzard, to be forwarded to Alicant, and proceeded myself to Tarragona.

Q. Have you any, and what reason, to believe that Sir Benjamin Hallowell received the intelligence?

A. On my arrival at Tarragona, Sir Benjamin Hallowell informed me, he had received my letter.

Judge Advocate. It would be more correct to prove by Sir Benjamin Hallowell himself, when he received it, as he is here.

Lieut-Gen. Sir John Murray. On what day did you arrive off Tarragona?

A. On the evening of the 7th of June, about 7 o'clock.

Q. Was it on the 12th of June, that Sir Benjamin Hallowell told you he had received your letter of the 9th?

A. I cannot, at this time, recollect.

Q. Are you well acquainted with the beach of Tarragona, and the general state of the weather on that coast?

A. Yes.

Q. From your knowledge of the beach, and the general state of the weather, are you of opinion they may be depended upon for the Embarkation of an army at all times?

A. They cannot be depended upon in my opinion at all times.

Cross-examined by Rear Ad. Sir B. Hallowell.

Q. Do you recollect at what hour you sailed from Ballaguer on the 14th of June with Captain Carroll?

A. I do; the ship was under weigh about one P. M. I went on board, and made sail about half past four.

Lieut. William Pye, R. N. sworn.

Examined by Lieut. Gen. Sir John Murray.

Q. What is your rank and station in His Majesty's service?

A. I am a Lieutenant in the Navy upon half pay.

Q. How long have you been in His Majesty's service, and how long have you been an Agent for Transports?

A. I have been nearly 16 years a Lieutenant in His Majesty's service and a little more than 5 years an Agent for Transports.

Q. Were you employed as Agent for transports in June, 1813, in the Bay of Tarragona?

A. Yes.

Q. What duty was assigned to you during the siege of Tarragona?

A. I had the general superintendence of the beach both day and night from the 4th of June to the 12th in the morning, when Captain Withers being on the beach, I conceived my duties at an end. On the 3rd and 12th, I did my duty in a general way under Admiral Hallowell's directions, and his, both ashore and afloat.

It being now 3 o'clock, the Court adjourned to to-morrow morning, ten o'clock.

ELEVENTH DAY.

Wednesday, 1st February, 1815.

The Court met pursuant to Adjournment.

Lieutenant William Pye, R. N. called in again.

Examined by Lieutenant-General Sir John Murray.

Q. Does the experience you have had in the service, and your general knowledge upon the subject, enable you to state to the Court the time necessary for the embarkation of an army, with its guns, stores, and equipments?

A. Yes; I should think it does; I must be acquainted with the resources of transports, and all means of embarkation, and disembarkation, although there were officers in the fleet of greater experience than myself, and were capable of speaking upon such a subject.

Q. Supposing the whole army under my command in June, 1813, and its equipment consisting of about 13,000 men, 1600 horses, 16 pieces of field artillery, and 46 pieces of heavy ordnance, with their appurtenances, with two days' consumption of ammunition for the batteries, engineers' stores for the siege, and three days' provisions for the army, and forage for the horses, had been all ready on the beach; are you of opinion that the embarkation of the whole, with the means then in our possession, could have been completed in 24 successive hours, provided even the weather had been as favourable as possible?

A. Considering local circumstances, and our means of embarkation, I am most decidedly of opinion that it was absolutely impracticable; indeed, I conceive it to be rather a matter of fact than of opinion, the impracticability.

Q. Supposing the embarkation of the army under my command, consisting of the number stated in the last question, could have commenced at day-break, on the morning of the 12th of June; are you of opinion that the whole could have been embarked by sun-set on the 13th with the means we then possessed?

A. Considering the great number of horses, and what must have been the exhausted state of the boats' crews on the 13th, from having had 24 hours' work, without any relief or rest, and a variety of other circumstances, I think it extremely improbable; but when I consider the resources

and great experience of the officer at the head of the Naval branch of the expedition, I will not take upon myself with my limited experience, to say that it was absolutely impossible. I have answered this question with reference to the state of the beach on the afternoon of the 12th.

Q. With the means we possessed for the embarkation of horses on the 12th of June, 1813, how long a time do you think it would have taken to have put on board 1600 animals.

A. It is impossible for me to say what was going on in every part of the Bay of Tarragona; the horses were embarked three miles from the place where I was stationed at the western extremity of the Bay. I do not know the number of boats which were appropriated to that service on the 12th; but, I conceive there could be no other boats applicable to that service, but the boats of the horse ships and the six flats.

Q. Supposing now that there had been no other boats applicable to the service of embarking horses, than what you have stated, what time do you think would have been required to embark 1600 animals?

Judge Advocate. Is that to which you are referring a memorandum made at the time.

A. No, it is a calculation made.

Q. By yourself?

A. Yes it is.

Judge Advocate. Then you may refer to it, if it is made by yourself and is not a statement of facts written since.

A. On the supposition that it were possible to have employed all the boats of the horse ships and the flats, and that his Majesty's ships Malta and Fame, had furnished working parties to the amount of 600 men; I am of opinion that it would require at least 24 hours of perfect day-light to embark the whole number from the bridge erected at the southern extremity of the bay.

Q. From the acquaintance you have with the general state of the weather on the coast of Catalonia, and from your knowledge of the beach of Tarragona, are you of opinion that the weather and the beach could be depended upon at all times for the embarkation of such an army as has been described.

A. From my knowledge of the beach at Tarragona, I conceive nothing could have been so uncertain as such dependence.

Cross-examined by Rear Admiral Sir Benjamin Hallowell.

Q. Do you know how many transports we had with us at Tarragona on the expedition with Sir John Murray?

A. I understand the total to have been 130, but it is not necessary for me to understand the precise number when I know the force to be embarked, and when I also know that we brought with us no empty transports except perhaps an hospital ship.

Rear Admiral Sir Ben. Hallowell. I only wanted an answer to the number of Transports, the means that they afforded, in making your answer, respecting the impossibility of embarking Sir John Murray's army at Tarragona within the time you have mentioned, have you taken into consideration, that the cavalry and artillery were all sent to Ballaguer for embarkation, and that two battalions of Infantry, were also there?

A. Most certainly; I have made my calculations on the supposition that all the force was upon the beach ready at Tarragona, as described in the first question of Sir John Murray.

Lieut.-Gen. Sir John Murray. I intended the question to refer to the embarkation of the whole from Tarragona, because by delaying the embarkation till the 13th, Ballaguer would have been shut out from us, and we could not have sent the cavalry there, but the whole must have been embarked from Tarragona.

Judge Advocate. This is all observation on both sides.

A. I was aware in fact, that the Artillery and Cavalry had been sent to the Coll de Ballaguer, when I answered the question.

Rear Admiral Sir Benjamin Hallowell. Do you know, that after 12 o'clock on the day of the 12th, there were only 18 pieces of heavy ordnance on shore, instead of 46, as stated by Sir John Murray's question.

A. Yes, there was also a brigade of Artillery, that went off to Ballaguer with a vast deal of their appointments.

Rear Admiral Sir Benjamin Hallowell. My question respects only the heavy ordnance, do you know that after 12 o'clock, on the day of the 12th, there were only 18 pieces of heavy ordnance on shore, instead of 46, as stated by Sir John Murray's question.

A. The former question, I believe, never stated there were 46 on shore, at 12 o'clock on the 12th.

Q. Then were there more than 18 pieces of heavy ordnance on shore before Tarragona after 12 o'clock at noon, on the 12th?

A. I conceive there were no more on shore at that period, the others having been previously embarked between 5 o'clock that morning and 12.

Q. You have spoken of the exhausted state that the seamen would be in, on the 13th, after working all the 12th; now if the seamen had worked all the day and night of the 12th in taking off stores, would there have been any thing of consequence, to have been taken off on the 13th, excepting the troops, knowing that the Cavalry and Artillery had gone to Ballaguer?

A. Certainly not; it was the horses that I laid so much stress upon the embarkation of on the 13th, in my answer, if they were not to be embarked on the 13th, but were sent off to Ballaguer, the embarkation of the infantry would have been very light work.

Q. You have stated the time it would require to embark a certain number of horses at one spot; namely, the wharf in Tarragona Bay; do you not know that we might, and that we actually did embark horses all along the beach by means of stages to hang on the boats' gunwhales which I had prepared for that purpose?

A. I never saw those stages until the embarkation at Ballaguer, and then to the best of my recollection there were about three.

Lieut. Gen. Sir S. Auchmuty. What time would it have taken to embark 18 heavy guns and 4000 men on the morning of the 13th, beginning at dawn of day, taking into your consideration the state of the boats' crews?

A. I am satisfied, that on the morning of the 13th, we should have had occasion to have erected shears for the embarkation of the guns; whereas on the 12th, the state of the beach was so extremely fine, that we embarked with triangular gins, a very unusual mode, I believe, of embarking 24 pounders upon a sandy beach; I think the guns would have been in the boats in about 2 hours, and aboard the ships in two hours more, provided, (as no doubt would have been the case,) there had been working parties from the men of war on board the ordnance ships; but that supposes no stores, but only the guns. A great deal would depend upon what sort of troops those 4000 men were, whether they were to be Spanish or British; if British, I think they would have been embarked in two hours, or less, if Spanish in three hours.

Q. Do you mean that two hours to be after the guns were embarked, or during the embarkation of the guns,

that the embarkation of the troops, and the guns would have occupied six or seven hours?

A. If they had been embarked in succession.

Q. Were the means such as that the whole could have been going on at the same time, or not?

A. I think that the two operations might have gone on at the same time, on the supposition that all the boats, Men of War's boats and all, were disposable for this purpose.

Q. What time would it have taken to have embarked the 4000 men without the guns at day break that morning, the boats being all ready?

A. I still think, as I said before, the difference would not have been very great, taking in the 18 guns, it would only have required 18 launches, and the troops could not have embarked much quicker.

President. You had better speak as nearly as you can to the time?

A. About the time I have before mentioned.

Lieut. Gen. Sir S. Auchmuty. Would it have required two trips of the boats?

A. No.

Lieutenant-General Sir John Murray. I only wish to observe, that my question does not appear to have been exactly understood; I have asked him specifically as to time, and have taken the 12th, and the 13th, and upon that account I took the 46 pieces of cannon which were on shore at 12 o'clock at night; and I wished from the evidence to prove that before the evening of the 13th, that could not have all been embarked; if I had taken the 17 pieces, or 18, including the unserviceable one spiked on shore, I should have pointed my question to a much later period, I should have said from day break of the 13th, there were then only 18 on shore; but I took it from the period when there were the 46 on shore, and also on the supposition that if I had waited till the 13th the communication with Ballaguer would have been cut off, which I had every reason to reckon upon; and, that, consequently, not being able to send the field artillery with the cavalry to Ballaguer, it would have been necessary to have embarked that also, from Tarragona.

President. I think the question seems to have been answered, though the witness might not thoroughly understand the view you had in putting the question.

Lieutenant General Sir John Murray. If I had known, at

what period he could have finished the embarkation of the 18 pieces of cannon, with the cavalry, and the artillery, I should have asked him, commencing the embarkation on the morning of the 13th, instead of that, I took it from the evening of the 12th.

Judge Advocate. The Court will, I dare say, put any question, if you wish it; but, it appears to me, there is no misunderstanding on the evidence.

Lieutenant-General Sir John Murray. I am perfectly satisfied, I have no wish to put any further question.

Captain Charles Patten sworn.

Examined by Lieutenant-General Sir John Murray.

Q. What is your rank and station in His Majesty's service?

A. My rank, was that of a Captain in the Navy; my present station, is resident Agent for Transports, at Portsmouth.

Q. How long have you been employed, as an Agent for Transports?

A. Upwards of twenty years.

Q. Supposing, that as principal Agent for Transports at Portsmouth, you had received orders to embark, from South Sea Beach, an army and equipments, consisting of 13,000 men, 1600 horses, 18 pieces of heavy ordnance, with all their appurtenances, 16 pieces of field artillery, 2 days' consumption of ammunition for the batteries, 3 days' provision for the troops, and forage for the horses, together, with the engineers' stores for a siege, with a requisite number of transports, qualified to contain the same, and without receiving any other assistance, than what two 74 gun ships could give, and no other boats than those of the ships embarking; are you of opinion, that such an embarkation could be completed in less than two days, supposing the transports to lie from one to two miles from the shore, no tide, and a perfect calm; the infantry ships to be calculated at a ton and a half per man, and the horse ships to contain, on an average, 38 horses?

Judge Advocate. This is, certainly, a sort of evidence, but it is so much inferior to what we have before had, that I should doubt whether the Court would think it proper it should be put.

Lieutenant-General The Hon. Sir Edward Paget. It appears to me, really, a waste of time of the Court.

General Earl Ludlow. There is a tide at Portsmouth, and none at Tarragona.

Lieutenant-General Sir John Murray. This is putting it

in the strongest light, that there shall be no impediment of any kind, and whether under the most favourable circumstances, it would be practicable; if the Court do not think it material, I will withdraw it.

Judge Advocate. I am only afraid, it will lead into a long cross-examination, as to the difference between an embarkation at Portsmouth and at Tarragona.

Rear Admiral Sir Benjamin Hallowell. I certainly object, if I am allowed to do it; I should object to an Officer, who has been so many years at Portsmouth, as Captain Patten has, giving evidence as to an embarkation from a beach, with the state of which he is not acquainted.

President. This question is confined to Portsmouth Harbour, to which he could speak; the doubt upon the mind of the Court is, whether the question is either necessary or proper to be put; and, if there is a difference of opinion, upon the subject in the Court, it will be necessary we should clear the Court, and determine the point.

Lieut.-Gen. Sir John Murray. The question as it stands, is, supposing an embarkation to take place under the most favourable circumstances possible; that cannot be said to be the case at Tarragona, but under the most favourable circumstances possible, whether such an embarkation could take place within such a time.

Lieutenant-General Porter. We have the best evidence on the subject already.

Judge Advocate. This is a sort of evidence, but it is so very immaterial in comparison with what the Court have already received, they will judge whether they should take it.

Lieut.-Gen Sir John Murray. It appears to me, so far of consequence, that, if upon the testimony of experienced officers, it is proved, that an embarkation, such as is there described, could not, under the most favourable circumstances imaginable, be completed within a given time, there is less reason to suppose it could be completed, where the circumstances were not so favourable.

Judge Advocate. If the question was to shew that under no circumstances it could be done within that time, then it would be directly evidence; but merely stating that it could not take place at Portsmouth, would lead to an enquiry as to the difference between Portsmouth and Tarragona.

Lieutenant-General Sir Samuel Auchmuty. If the question is persevered in, we must clear the Court.

President. I think the best question would be, whether under any circumstances it could be done, and not whether it could be done at any other place?

Lieut.-Gen. The Hon. Sir Edward Paget. The opinion of this portion of the Court is, that if the question is persevered in, the Court must be cleared.

President. If the question is not persevered in, the Court need not be cleared.

Judge Advocate. I object to the question as not being material to the point at issue. If Sir John Murray perseveres in the question, the Court must be cleared to consider of it.

Lieut.-Gen. Sir John Murray. I certainly will not give the Court the trouble of considering it; I should have wished certainly to have put the question.

Judge Advocate. I believe we must clear the Court.

The Court was cleared.

After some time the Court was re-opened.

Judge Advocate. It is the opinion of the Court, that the question should not be put in its present shape.

Lieut.-Gen. Sir John Murray. Supposing that as principal Agent for transports, you had received orders to embark from any open beach an army and equipments, consisting of 13,000 men, 1600 horses, 18 pieces of heavy ordnance, with all their appurtenances, 16 pieces of field artillery, two days' consumption of ammunition for the batteries, three days' provision for the troops, and forage for the horses, together with the Engineers' stores for a siege, with a requisite number of transports qualified to contain the same, and without receiving any other assistance than what two 74 gun-ships could give, and no other boats than those of the ships embarking; are you of opinion that such an embarkation could be completed in less than two days, supposing the transports to lie from one to two miles from the shore, no tide, and a perfect calm, the infantry ships to be calculated at a ton and half per man, and the horse ships to contain on an average 38 horses?

A. If I speak from my own experience, it goes to the embarkation of infantry; I have never been employed in the embarkation of horses from the beach, we embark all the horses at Portsmouth, from the Dock Yard, or the Gun Wharf, immediately on board the ships.

Judge Advocate. You do not give any opinion upon the question?

A. No, I do not wish to offer any opinion upon it.

Captain John Halsted, R. N. sworn.

Examined by Lieutenant-General Sir John Murray.

Q. What is your rank and station in His Majesty's service?

A. His Post Captain in His Majesty's Navy.

Q. How long were you employed as an Agent for transports, and have you ever served as principal Agent for Transports in expeditions?

A. I have been employed between four and five years, most of that time as principal Agent on expeditions.

Q. Supposing you were a principal Agent for transports, and had received orders to embark from an open beach, an army and equipments, consisting of 13,000 men, 1600 horses, 18 pieces of heavy ordnance, with all their appurtenances, 16 pieces of field artillery, two days' consumption of ammunition for the batteries, three days' provision for the troops, and forage for the horses, together with the Engineers' stores for a siege, with a requisite number of transports, qualified to contain the same, and without receiving any other assistance than what two 74 gun-ships could give, and no other boats than those of the ships embarking; are you of opinion that such an embarkation could be completed in less than two days, supposing the transports to lie from one to two miles from the shore, no tide, and a perfect calm, the infantry ships to be calculated at a ton and a half per man, and the horse-ships to contain on an average 38 horses?

A. I do not think it could be done within that time.

General Sir George Beckwith. Meaning eight and forty hours?

A. Yes, the forty-eight hours, day and night.

Cross-examined by Rear Admiral Sir Benjamin Hallowell.

Q. What time would be necessary to embark 13,000 infantry, and 18 pieces of heavy ordnance, without any horse artillery, or cavalry, and having the means afforded by 130 transports, assisted by means of an 80 gun ship, a 74, and a 64, with a good beach?

A. From eight to ten hours, I should conceive.

Q. (*By the Court.*) Upon what expeditions have you served as principal Agent for transports?

A. Copenhagen, Gibraltar, Figuera Bay, and Lisbon.

Lieut.-Gen. Sir John Murray. I would take this opportunity of mentioning, that I have no further occasion for the attendance of the other officers of the navy, whom I sum-

moned to the same point; I understand their further attendance would be extremely inconvenient, they might, therefore, be dismissed, if the Admiral has no occasion for their attendance?

Judge Advocate. Their names are Captain Patten, Captain Halsted, Captain Hewitt, and Lieutenant Morgan.

Rear Ad. Sir B. Hallowell. I have no objection to their being dismissed.

Judge Advocate. It should be understood by all the witnesses, that they are not finally dismissed till these proceedings are confirmed; it is not likely they may be wanted, but it is possible, and, therefore, they should, on being dismissed, send their address to the Judge-Advocate's-Office in London.

Major General Rufane Shaw Donkin called in again.

Examined by Lieutenant-General Sir John Murray.

Q. What is your rank in His Majesty's service, and what situation did you hold in the army, under my command, in Catalonia, in June, 1813?

A. I am a Major General in His Majesty's service, and was Quarter-Master-General in that army.

Q. Do you know of any troops having been put into the boats, for the purpose of disembarkation, on the 2nd of June?

A. I do; the advance, and the 58th regiment were put into boats, on the 2nd of June, but returned on board again in the evening, on account of the surf, which prevented their landing.

Q. Did you give or send to Sir John Murray, any intelligence on the 11th of June, and be so good as to relate to the Court what passed that day, subsequent to the receipt of that intelligence?

A. Sir John Murray was absent, I believe, the whole of that day; but at twelve o'clock, or thereabout, a Spanish Officer from the front, came to my house and told me, he brought intelligence for the General; he mentioned that General De Caen was on the march, with a considerable force, from Barcelona, supposed to be 10,000 men, and that he would reach Villa Franca that evening; after reposing himself a little, this officer left me; at 6 o'clock in the evening of the same day, another Spanish officer came to my house, and told me that he brought intelligence for the General, and was anxious to see him: as this officer was more circumstantial in his account than the former one,

I desired he would allow me to take down in writing the amount of what he said, which I did; this is the Memorandum I made that evening in that Officers presence, "11th June, Barcelona to Molens del Rey, three hours; Molins del Rey to Tarragona, fifteen to sixteen hours;" — under which I have written in pencil,—"not so much,"—"10,000 men marched this day from Molens del Rey, will not get further than Villa Franca to day, the 11th of June, or a little beyond it, marching again at twelve at night, will reach Tarragona in about nine or ten hours, that is, to-morrow the 12th." This was the amount of the intelligence given to me by the officer, under which I wrote at the same time.

Judge Advocate. Any thing arising from that which you have to state, you may do now upon oath.

A. This is what I wrote at the time, in consequence of that Officer's conversation.

Judge Advocate. You are reading from that paper what you have there stated, which you are now ready to give upon your oath I suppose.

A. This was the information given me by a Spanish Officer bringing me a detailed statement of the march of the enemy, for Sir John Murray.

Judge Advocate. The whole of this is not so much evidence as this Spaniard's opinion.

President. I apprehend the Witness swears to his having made this document at the time.

Judge Advocate. But he is reading that paper, not as his evidence at this time, but as what he then wrote.

A. I am ready to swear that this paper was written by me as the statement of that Officer, every word that I have read was given me by the Spanish Officer.

Judge Advocate. But not what you are now about to read, you may now repeat that as your evidence upon oath; this is, "Barcelona to Molens del Rey three hours," does that mean that they went in three hours, or that they could go in that time? it appears to me only the Spaniard's opinion, that they could go in so many hours: General Donkin may now state upon his oath any thing he observed at the time.

A. The Spanish officer says, "From Barcelona to Molens del Rey three hours, Molens del Rey to Tarragona fifteen to sixteen hours; 10,000 men marched this day, from Molens del Rey, will not get further than Villa Franca to day, the 11th of June, or a little beyond it."—That is his intelligence.

Judge Advocate. That is his opinion.

Gen. Lord Charles Fitzroy. General Donkin states that the Spaniard told him this.

Judge Advocate. Was that the whole of the intelligence given you by the Spaniard?

A. It was; I have written in pencil, under this Spanish Officer's intelligence, that from "Molens del Rey to Tarragona, was fifteen or sixteen hours," that it is not so much.

Q. Do you now say upon your oath, that it is not so much?

A. Yes, I do, I believe the distance from Molens del Rey to Tarragona is not so much. The above information was given me by a Spanish Officer bringing a detailed statement of the march of the Enemy, for Sir John Murray; this Officer having left me, I went to Sir John Murray's house, but he was not at home; he returned, I believe, about nine, or half past nine in the evening; I met him on the road between his house and the town of Tarragona, walking, apparently just got off his horse: he then told me that from the intelligence he had that day received of the certain advance of the Enemy in force, he was determined to raise the Siege immediately; he told me, that he had countermanded the orders for storming Fuerte Reale, giving as a reason, that it would be an useless waste of blood, to assault a place which would not be followed by the immediate surrender of the Town. During the time I was with Sir John Murray, he told me he should immediately give directions for bringing the battering cannon down to the beach. I soon after left him, and on going to my own quarters, I directed the Officers of my department who were there, to hold themselves in readiness for any orders all night; I acquainted them that the siege was to be raised, and the cannon would probably be brought down that night, and I directed one of them to go on board to the principal agent for transports, and acquaint him with Sir John Murray's intentions, that he might be prepared. I desired this Officer at the same time, to pack up the books and papers of my department, which being contained in two small boxes, was soon done. I understood afterwards, that six boats were demanded for the conveyance of these papers and books. I have no recollection of any such requisition being made, nor can I well comprehend, by what calculation I could propose to put two boxes into six boats; I remained in my quarters all night, expecting to hear the cannon come down to the beach.

Q. At what time did you first see me on the 12th, and what passed on that day before the commencement of the embarkation of the troops?

A. Very soon after day-light on the 12th, I went to head-quarters to take Sir John Murray's orders; he then told me, that he was sorry he had not been able to get the battering guns down during the night, and that he should be unable to bring them away. He then acquainted me with the order in which he meant to embark his troops, which was, that he should first withdraw General Whittingham's corps, that General Clinton should cover the march of it with his division, and that General Clinton's division should then retire, withdrawing his picquets, destroying the gun carriages, and spiking the guns. This Sir John Murray communicated to me as his intention; but not as an order for execution. In leaving him soon after, I met the Commanding Officer of Artillery, and told him what was about to be done, asking him at the same time, if his officers in the batteries had implements for the destruction of the gun carriages, and the spiking of the guns, as I apprehended orders to that effect would shortly be given. The Commanding Officer of Artillery expressed his regret at the loss of his cannon, and said he would go and speak to the General about it; he left me on this. In about two hours I returned to head quarters, and found a considerable number of officers waiting for Sir John Murray, who had gone out on horseback; after waiting there myself for some time, a Spanish officer rode up in great haste, and asked for the General, saying, he had important intelligence for him from General Copons, holding in his hand at the same time a letter. After some more time had elapsed, this officer came to me, and represented the necessity there was for a speedy answer to that letter, as General De Caen's corps was in movement; knowing as I did that General De Caen's corps had arrived the day before at Villa Franca, and knowing also that if he continued his march, he might arrive before Tarragona in the course of the morning of the 12th, I determined, after some hesitation, to open the letter, in order to send Lieutenant-General Clinton word, if the enemy were near him, that he might draw his troops out of their bivouac, and put them in line if he thought proper to do so. On reading this letter from General Copons to Sir John Murray, I found it contained only a confirmation of former intelligence, that General De Caen's corps had arrived at Villa Franca the day before, and requested Sir John Murray's instructions, as to what

he, General Copons, was to do. I immediately went in search of Sir John Murray with this letter, and after some time met him on horseback, on the road coming from Villa Sua. I then translated this letter to Sir John Murray, verbatim. After considering it well, Sir John Murray repeated to me his intentions, relative to the raising of the siege, as he had done in the morning, and said, that they should be carried into execution immediately. I requested the General to give me those orders, as he chose to have them conveyed, and they were as follows: "You will send to Lieutenant-General Clinton, and desire him to call in General Whittingham's corps from the left, and send them down to the beach; General Clinton will then put his division in movement, and cover the march of Major-General Whittingham, previously calling in his picquets, destroying the gun-carriages, and spiking the guns." As I felt the importance of this order, I repeated it distinctly, word for word, to Lieutenant Drew, an assistant in the Quarter-Master-General's department, in Sir John Murray's hearing. I then turned to Sir John Murray, and asked him, if I had delivered his orders correctly; he told me I had, and I then directed Lieutenant Drew immediately to proceed with them.

Judge Advocate. There is a memorandum upon this paper which is put in; it does not appear whether it is part of the intelligence, or a memorandum. "Memorandum—best position near bridge, at Altufalla, to fight De Caen, Route "by Constanti," whether it was an opinion of your own, or of the Spanish officer.

A. It is an opinion written at the time, and, conditionally, in case, it should be thought proper to fight De Caen in front of Tarragona; and inserted in that paper, in consequence of the conversation I had with the Spanish officer; but I by no means meant it, or mean it now, as an opinion that we ought, or ought not, to have fought General De Caen on that road.

Q. Is it your present opinion, that that was the best plan to have done it, if it was to be done?

A. I mean to give no opinion.

Judge Advocate. I put this question merely to make it evidence; I am taking that down which is not evidence; if General Donkin is not now prepared to state, that that is in his opinion the best position.—

Lieut. Gen. Porter. I understand the General does not mean to give any opinion.

Judge Advocate. Then we should add that he does not mean to give any opinion upon this point; I do not know that it is material.

Lieut.-Gen. the Honourable Sir E. Paget. What does it signify to this Court, whether it is the best or the worst position?

Judge Advocate. Otherwise it should not appear upon the minutes.

Lieut.-Gen. Montessor. It appears only in explanation of that remark upon the paper.

Judge Advocate. This paper is put in in evidence.

Lieut.-Gen. Sir J. Murray. I never asked for the paper in evidence.

Lieut.-Gen. Sir S. Auchmuty. We never heard of the paper being evidence at this end of the table; it appears to me that has nothing to do with the matter before us.

Lieut.-Gen. Sir J. Murray. I should wish to know how that paper comes in evidence, I never called for it.

Judge Advocate. If the paper is withdrawn, of course the question does not arise; but it was given in to me to put upon the minutes, then I will scratch out the whole of that last answer.

Gen. Sir G. Beckwith. The only part of the paper we have to do with, is the report of the Spanish Officer as to the advance of the French.

Lieut.-Gen. Sir J. Murray. Did you at any time that day send Lieutenant Drew, of your department, with orders to General Mc Kenzie, relative to spiking the guns in his front?

A. I do not believe I ever sent Lieutenant Drew with any orders to General Mc Kenzie; I have no recollection of his carrying any order, but that which I have stated as addressed to Lieutenant General Clinton.

Q. Did you receive any further orders from me that day, relative to the embarkation, and if you did, what were those orders?

A. I did; Sir John Murray desired me, as the troops were marching to the beach, to go down and request the naval officers there, to embark the army in the following order: the troops first, and the horses and mules, and stores, which were on the beach, last; this request was repeated, through me, to those officers, twice or thrice in the course of the day. I perceived, in communicating it, a great unwillingness to believe that the enemy was either near or in force.

Lieut.-Gen. The Hon. Sir E. Paget. Really, has that any

thing to do with the question; the question is, what were the orders given by Sir John Murray, and we have heard what the orders were.

Major General Donkin. I am going to account for the repetition of them.

Lieut.-Gen. The Hon. Sir E. Paget. It appears to me we have a distinct answer to that question; if Sir John Murray wishes for an answer to any other particulars, he may put a fresh question.

Lieut.-Gen. Sir J. Murray. Have the goodness to state what occurred on the 12th, subsequently to my giving you the orders referred to in the last question.

A. Sir John Murray having perceived that the order of embarkation he had pointed out, was occasionally deviated from, he sent me, twice or thrice, with a repetition of his request; in conveying it, I thought it but right to acquaint some of the naval officers, to whom I spoke, that they were mistaken in thinking as they did, that the army was retiring before 5000 men only; I told them Sir John Murray's reason for repeating his request, was the proximity of the enemy, as well as his force, which I mentioned according to the latest accounts; Sir John Murray sent me with a request, in the course of the afternoon, to Captain Bathurst, at the western extremity of the bay, begging he would discontinue the embarkation of the horses and mules there, and send his boats to the centre of the bay, to take off the troops. I then, having delivered my official communication, made Captain Bathurst acquainted with the last intelligence we had of the enemy's situation and force; he asked me what was to become of the horses and mules? I told him they would be embarked after the infantry, if there was time, but if not, that of course they would be destroyed. I added, that if De Caen's corps continued its march that day, at the same rate as on the preceding ones, it might be at Tarragona that afternoon; the embarkation was continued until late that night.

Q. Do you recollect being present at an interview between General Mc Kenzie, Colonel Adam, and myself, in the forenoon of the 12th of June.

A. I do.

Q. Be so good as to state the conversation which took place.

A. I met the above-named officers, and Colonel Thackeray of the engineers, at Sir John Murray's door, entering; they requested me to return with them to Sir John Murray,

as they wished to speak to him as to fighting General De Caen. On entering Sir John Murray's room, Colonel Adam addressed him at considerable length, stating a variety of reasons why he should march on that day and attack General De Caen. When Colonel Adam had done, Colonel Thackeray addressed himself to Sir John Murray to the same effect, but less at length; when Sir John Murray had heard both these gentlemen through, he said to them, "Gentlemen, I will do no such thing; besides, were I to attempt it, General De Caen would not fight me, he would naturally fall back on Barcelona, and leave me the choice of following him or not; if I followed him, I should leave Tarragona open in my rear for Marshal Suchet to enter, and I should then find myself between Barcelona and Tarragona, and my communication with my shipping cut off; if I stop short, and return in time to prevent Marshal Suchet from entering Tarragona, I shall have failed in my object in bringing General De Caen to action, and shall return before Tarragona, and a new enemy, with harassed troops; besides these reasons," Sir John Murray added, "I will give you another, gentlemen," he then produced a paper, and read from it a passage which I do not exactly recollect; but one part of the purport of it, was something relative to not committing his army; on hearing this, General McKenzie, who had not till then spoken, said, "there is no answering that;" those gentlemen soon afterwards retired, and I with them.

Q. Did the orders which passed through you that day, appear to you to bear the construction of having been sent out in endless succession?

A. I recollect to have received but two orders from Sir John Murray that day; the first directing the retreat of the troops to the beach, and the second relative to the mode of their embarkation, which latter order was repeated by Sir John Murray twice or thrice without variation.

Q. Did you see Admiral Hallowell on the evening of the 12th, and did he say any thing to you relative to the transmission of a dispatch?

A. I had no official communication with Admiral Hallowell on that subject, and I must decline giving any account of any thing that happened to me on that day, not in the execution of my official duties, or which was not communicated to me officially.

Lieut-Gen. Sir John Murray. Mr. President, I beg to say I shall not press that question after the answer General Donkin has given.

The statement of Suchet's force was shewn to Major General Donkin.

Lieut.-Gen Sir John Murray. You have given in a calculation of Marshal Suchet's force in Arragon and Valencia only, have the goodness to look at that, and say whether those returns are composed from the best information you could procure relative to the strength of the enemy's armies on the eastern coast of Spain.

A. They were, and a variety of concurrent testimony has convinced me they are tolerably accurate.

Q. Had you not the charge of the Secret Intelligence department, when you found the calculations set forth in that return?

A. Most of the calculations therein were made on intelligence I obtained, while I had charge of the Secret Intelligence department of the army; but on Sir John Murray's arrival, he took that branch of the service into his own hands; I founded no calculations on it after that period.

Q. Had you any means of knowing the strength of the French Catalonian army, at the time you gave up the Secret Intelligence department?

A. I had means of knowing that it was some months before, and of the changes which had taken place in it, in consequence of the debarkation of our troops at Alicant.

Q. State to the Court what the amount was, and what those changes were.

A. I can only do this, by offering to the Court a written statement on that subject, which I have in my pocket.

Judge Advocate. Was it made by yourself?

A. It was.

Q. At the time?

A. Yes, it was;—this was a statement of French troops in Catalonia, as collected from deserters and others, and from Baron d'Erolles and the Junta on board the *Malta*, when she was off the coast; there is a note at the bottom of this, "the blanks could not be filled up for want of information."

Lieutenant General Sir John Murray. If you will state the total numbers, and the changes, it will be sufficient.

A. The total at that time, in Catalonia, July 1812, was 30,800 infantry; the regiments are all named in this paper: of those, 7000 men, being five regiments, marched into Valencia in consequence of our debarkation at Alicant, and remained ever after with Marshal Suchet's army; all those regiments are marked with a cross in this paper.

Judge Advocate. If the paper is given in evidence, the witness should swear, that he believes this to be as correct as the information afforded him would enable him to prepare.

A. It is, I believe, as correct as it could be made.

Q. And the observations written upon it are founded in fact?

A. They are, to the best of my belief.

The paper was read as follows :

French Corps in Catalonia, July 29, 1812, when off that Coast.

<i>Corps,</i>	<i>No. of Bns.</i>	<i>Quarters.</i>	<i>Strength.</i>	<i>Observations.</i>
5th Line	3	{ 2 bns. on beach in sight, 1 bn. Olot - - -	2400	
1st Legere	*	Tarragona	1600	Since to Valencia.
3d Legere	*		1200	Ditto
8th Legere		1 bn. at Girona		
20th Line	*			{ Lately from France, since to Valencia.
7th Line	*	Barcelona	1400	Since to Valencia.
7th Italian Regt.		Ditto	1500	
18th Legere of 1 Bn. only - - - - }		Ditto	600	Depôt battalion.
23d Line		Ditto 1 bn.		
23d Legere		Abisbal, 1 bn.		
11th Line	3 Bns. *	Barcelona	1500	Since to Valencia.
29th —		La Cordana		
32d Legere				
42d —		Barcelona	1300	
67th —	2 Bns.	Olot or Besalu	1300	{ Deserter says, he is sure they draw 1400 rations.
57th Line				
79th Line	2 Bns.		1500	
60th Line	2 Bns. {	Figueraes, Pala- mos, &c. - -	2000	
112th Line	2 Bns.			
115th Line		Barcelona	1600	
Regt. of Nassau		Ditto	1800	
Regt. of Walstein				

22 Regiments, say 44 battalions on an average, say
at 700 men each,

Gives - - - 30,800 Infantry.

Suchet has - - 12,000 on this side the Xucar,

Total - - 42,000 Infantry.

N. B. Of the Infantry in Catalonia, as above } 30,800
 Ten Battalions marked *, have } 7000 { To be deducted, taking
 since marched to Valencia. } each bn. at 700 men.

Leaves in Catalonia after our arrival at Alicant - - - } 23,800 Infantry.

Cavalry.

23d Heavy Dragoons - - - 8 or 900

Chasseurs in Cheval - - - 600

Coming from France - - - 1500 { Reported by deserters of 5th Regt.

Artillery.

4 Co's. horsed.

2 Troops of horse artillery (with Suchet.)

* *Irregulars.*

6 Co's. gens d'armes for taking deserters, &c.

24 or 28 mounted Miquelits to each troop of cavalry.

N. B. Many of these regiments have since been ascertained to have three battalions—none were admitted into the foregoing list, but those which had been absolutely seen by the deserters themselves, or admitted, beyond doubt, by Bn. D'Erolles, &c.—The blanks could not be filled up at the time for want of information.

R. DONKIN,

Quarter Master General.

Major Gen Donkin. This is the statement I took from the mouth of Colonel Cabanes, at Alicant, as he read to me a paper which he had.

It was read as follows :

March, 1813.

Colonel Cabanes's calculation of French and Spanish troops in Catalonia.

	<i>Inf.</i>	<i>Cav.</i>	<i>Art.</i>
Division of Lamarque-Gerona - - -	4854	390	4p
Bde. of Lefevre - Barcelona	3100	230	3
	<hr/> 7954	<hr/> 620	<hr/> 7
Garrisons Barcelona, Matthieu - - -	3000	50	
Gerona - - -	1000	50	
Figueres - - -	700	10	
Rosas - - -	900	6	
Hostabrich - - -	250		
Tarragona, Bartolotti - - -	1000	30	
Tortosa - - -	600	60	
Lerida, Henriod - - -	1000	150	
Coll de Ballaguer - - -	100		
	<hr/> 16,454	<hr/> 936	

Brought forward	-	16,454	936
Fortified Points, Puigurdu, Gen. Quenel	-	4250	150
Olot, Lamarque	-	600	
Besalus, Bañalos Moneada, &c.	-	1200	
Palamos 300, Mataro 300,	-	600	10
		<hr/>	<hr/>
		23,104	1096

Spanish troops, gross total, including artillery, sappers, &c. 15,900.

Disposable in field 10,700 Infantry, 300 Cavalry.

Cabanes says, that the disposable force in Catalonia is 13,000 men.

(A true Copy.)

R. DONKIN, Q. M. G.

Lieutenant General Sir John Murray. As Quarter Master General of the army, and, consequently, acquainted with its equipments, is it your opinion, that it was in a state to undertake active operations against the enemy in the field, in Catalonia, in the month of June, 1813?

A. It was not in a state to undertake any distant operations, from having few or no mules attached to the commissariat to carry provisions, and from the artillery being inadequately horsed, and supplied with a very small proportion of ammunition waggons, from our not having been able to bring the horses and mules from Alicante, to the necessary amount to enable an army to take the field; I believe above 600 artillery horses and mules, belonging to our field establishment, were left behind.

President. Can you assign any reason for their being left behind?

A. From the want of transport tonnage; and all the commissariat mules, I believe, were left as well; there were about 100, or a little more, attached to that department when we were before Tarragona, but they were hired in that country.

Lieutenant General Sir John Murray. As Quarter Master General of the army, are you acquainted with the roads passing over the mountains from Tortosa, and the valley of the Ebro, to the plain of Tarragona, and if so, how many are there?

A. I am acquainted with those roads, and there are seven of them, not including a good carriage road by Montblanc; but between that town and the Coll de Ballaguer, inclusive, I have been all over five of those roads myself, and have marked them in a map which I carried always with me, and

which, if the Court think proper, I will lay upon the table; of the seven roads of which I have spoken, the whole are practicable for cavalry and infantry, with some difficulty in some of them for the cavalry, six of them are not practicable for artillery, unless light and dismounted.

President. There will be no objection I suppose to the map being laid upon the table, it may give some information to the Court.

The map was laid upon the table.

Lieutenant General Sir John Murray. Are you acquainted with the roads leading from Villa Franca to Tarragona; and if so, how many are there?

A. I am. Several miles before the road, from Villa Franca to Tarragona, approaches Tarragona, a branch of it goes to the right, and then branching again, one of those roads passes over the Coll de St. Cristina, and the other through the Roca Dellibre; consequently, there are three roads all carriageable, by which Tarragona may be approached from Villa Franca; besides which, there are several other roads, some carriageable, and some not, which branch off to the right on a nearer approach to Tarragona, and which are marked in pencil, by me, wherever they were not before engraved in the map I have laid upon the table; the carriage roads are distinguished by double lines, and there is not one of them marked in that map which was not done on the ground, consequently I am quite certain of them; that is a map of the Archbishopric of Tarragona.

Q. Was the embarkation on the 12th of June conducted with regularity?

A. It was, as much so as embarkations on an open beach with some surf could be conducted.

Q. Did you perceive any disorder or confusion, that could bear the construction of being discreditable or disgraceful to his Majesty's service at that time?

A. None.

Q. Do you not conceive that it would have been highly imprudent to have left 4000 men on shore, during the night of the 12th of June, under the circumstance of General De Caen's corps being within a day's march on the 11th, and the enemy having a garrison of 1600 men within a mile and a half of the place of embarkation?

A. This question involves so many considerations, that it is impossible to answer it; without entering into an explanation of them, I can give a general answer to that question.

Lieutenant General Montessor. You may give a general answer, and then, if it requires explanation, another question may be put.

A. I think 4000 men left on that open beach, without any advantage whatever of position, might have been very much harassed by the garrison of Tarragona itself, which would have sent out 12 or 1400 men to keep them in check, until General De Caen, or Marshal Suchet, came; but the expediency or in expediency is a complicated question, depending upon a variety of causes, and I cannot give a direct answer to it, without entering into it at large.

Lieutenant General Sir John Murray. Knowing as you did, on the night of the 11th, or the morning of the 12th, of the arrival of an enemy's column at Villa Franca, with 8000 men, and supposing the arrival of another enemy's column at Perello with 12,000 the same day, are you aware of any arrangements that might have been made to secure the embarkation of the guns in the batteries, without hazarding the loss of some part of the troops, or other equipments of the army under my command?

A. I can conceive no mode of securing the embarkation of those guns, but that of waiting with the whole army to cover it; and considering the situation of the enemy, as stated in the question, and our inferiority, both as to numbers and quality, I do not think it would have been prudent to have risked an action under the walls of Tarragona, under such circumstances, and for that purpose; but I must confine this answer strictly to the 12th of June, and to the suppositions contained in the question. In regard to the latter part of the question, I think there would have been a great hazard of the loss of a considerable part of the troops, and of their equipment, in case of our being defeated by a superior force, under the guns of a fortified town in possession of the enemy, and on an open beach, affording no position whatever to cover our embarkation, in case of a disaster.

Q. Would you, under such circumstances on the 12th of June, have advised risking the loss of any part of the troops or equipments of the army, in preference to the abandoning seventeen pieces of spiked ordnance, while seventy-four pieces, complete in every respect, remained in our possession?

A. I would not have advised risking such a loss by fighting an action under the walls of Tarragona, because, defeat there, would probably be followed by the loss of not a part of our equipments, but the whole of them.

Q. Would you, then, have ventured to counsel the adoption of any proposal, founded on deferring the embarkation of the troops from the 12th to the 13th of June?

A. I do not think, under a consideration of the circumstances stated in a former question, relative to the force and situation of the enemy, that deferring the embarkation of the troops from the 12th to the 13th of June, would have been prudent.

It being now three o'clock, the Court adjourned to to-morrow morning, ten o'clock.

TWELFTH DAY.

Thursday, 2d February, 1815.

The Court met pursuant to Adjournment.

Major General Rufane Shaw Donkin was called in again.

Major General Donkin. Before I proceed, I wish to rectify a mistake in my evidence yesterday. I stated that the account of French troops in Catalonia, given me by Colonel Cabanes, was dictated to me verbally; I received two statements from Colonel Cabanes, the one verbally, and the other not, if the Court will expunge the word, "verbally" which, I believe, stands in my evidence, it will prevent all mistake.

Examined by Lieut.-Gen. Sir John Murray.

Q. While you conducted the Intelligence department of the army on the Eastern Coast of Spain, did you receive any other information, than that you have already laid before the Court, relative to the strength of the enemy's army of Arragon, and if so, state what information you had, and whence you derived it?

A. While I conducted the Secret Intelligence department of the army, I received this statement of the state of the Garrisons of Valencia, from Captain Gray, who was employed on that duty.

Judge Advocate. Was this shewn to General Murray?

A. I should think it is most likely I communicated it to Sir John Murray, when he arrived, and took charge of the Secret Intelligence department.

Judge Advocate. I want to see how far it is evidence.

Lieut.-Gen. Sir John Murray. I only ask that question, to shew the grounds upon which General Donkin formed the statement which he has laid before the Court.

Judge Advocate. He has already stated, that he made it from the best sources which he could resort to for information; this in fact is no evidence, it is a letter of Captain Gray's.

A. Here is likewise a statement sent by the Marquis of Wellington.

Judge Advocate. To the best of your belief, your statement is drawn up from a reference to these, and all the

other documents you could refer to, giving correct information?

A. Yes, and also one of Marshal Suchet's own returns, which was intercepted.

Lieut. General Sir John Murray. If General Donkin will only state the sources of his intelligence, that will be quite satisfactory to me.

A. In this intercepted return of Marshal Suchet, he gives a return of 30,719 in Valencia and Arragon.

Lieut.-Gen. The Hon. H. G. Grey. When is that return dated?

A. The 15th of October, 1812; it was intercepted by one of General Elío's people and sent to me.

Judge Advocate. Sir John Murray having closed his examination, I propose to put one or two questions to General Donkin, in cross examination, as Prosecutor of the two first Charges.

Cross-examined by the Judge Advocate.

Q. From the information obtained before the night of the 10th of June, both of the state of Tarragona, and the probable approach and numbers of the enemy, is it not your opinion, that Sir John Murray had very good reason to believe that no real benefit could be derived as to the fall of Tarragona, by placing the six guns and four mortars in the batteries on that night?

A. I was never made acquainted with the state and progress of the siege, nor with the construction of the batteries, nor with the objects for which they were intended. All this business was conducted by Sir John Murray himself, directly with the Commanding Engineer, and the Commandant of Artillery, I therefore can form no judgment with what view the batteries alluded to by you were armed.

Judge Advocate. That is not a precise answer to the question; the question is, whether you think Sir John Murray must not have had good reason to believe, that no real benefit could arise from the placing them there on the 10th?

A. As far as my information goes, I think the siege should not have been continued after the 10th, but this is a naked military opinion; as I was ignorant of Sir John Murray's instructions or plan of campaign.

Q. If instead of so placing the guns and mortars in a battery that night, they had been moved towards the beach, and embarked, is it not your opinion, that even without actually commencing the re-embarkation of the army, sooner than it was done, the whole of the guns might have been preserved.

A. No, the siege not having been raised till the 12th, I think if those guns had not been placed, those which were already in battery, could not have been saved without waiting with the army on shore, all the night of the 12th.

Q. After the accounts had been received on the 8th or 9th, of the movements of Marshal Suchet in Valencia, do you know of any preparations having been made for preserving the guns and stores, in case of Sir John Murray's being obliged to raise the siege, in consequence of these movements?

A. I do not.

Q. Do you know of any proposal having been made to Sir John Murray for that purpose?

A. I do not, except that Sir John Murray told me himself on the 9th, that he expected he should be obliged to raise the siege. To which I replied, that it was natural to expect, we should not be allowed to take the place without interruption; and that I hoped we should get off our guns before the arrival of the enemy. I must observe, that this observation was made in ignorance of Sir John Murray's instructions, and plan of campaign.

Q. Do you know that Sir John Murray had it in contemplation on the 8th or 9th, to raise the siege?

A. I do; he told me on the 9th, that it was his determination, and left me, as I supposed, to make arrangements accordingly.

Q. Were you consulted as to the re-landing the remainder of the infantry again, at the Coll de Ballaguer, in order to endeavour to cut off a division of the French at Bandillos?

A. I was not.

Q. Do you conceive that that measure, if persevered in in a way likely to have made it efficient, must have brought on a general action, to avoid which, the guns had been spiked, and the stores abandoned?

A. No, certainly not a general action; it might, probably, have brought on a partial action with Marshal Suchet's corps: but that would have been in the plain of the Ebro, on the western side of the range of mountains.

Q. Do you think, then, that if Marshal Suchet had retired that force, and De Caen's force had arrived in the mean time at Cambrills, the army could all have embarked without great loss, or a general action?

A. I think, if the army had been attacked whilst embarking at the Coll de Ballaguer, it would have sustained

some loss, as in all such cases happens ; but the ground was exceedingly favourable for the covering of such an operation : and we were, moreover, in possession of Fort St. Philippe de Ballaguer, which would very much have kept the enemy in check, and protected the troops.

Q. Do you mean that he would have been so kept in check, if Suchet had gone round by Reus, and united with De Caen ?

A. Yes, because we should have naturally passed Fort St. Philippe, and embarked on the other side of the range, leaving the Fort interposed between us and the enemy, an obstacle he could not pass.

Cross-examined by Rear Admiral Sir B. Hallowell.

Q. At what time did you take the first order to the beach for embarkation of the troops, on the morning of the 12th ?

A. I think it was about two o'clock in the afternoon, perhaps rather sooner.

Q. Do you recollect telling me, in the morning of the 12th, about 9 o'clock, that it was Sir John Murray's direction, that no more horses were to be embarked, except a few staff horses ?

A. I do not recollect saying this ; but Sir John Murray had, very early in the morning, told me his intention of embarking the troops first, and the horses and stores last ; and, it is very probable, I may have made such a communication to the Admiral. I believe that Sir John Murray's horses were not embarked till 3 o'clock, and I know my own were not.

Q. Do you recollect being on the beach, about the hour I have mentioned, and desiring the officers employed there, to stop the embarkation of guns, and to be prepared to embark troops ?

A. I recollect carrying orders from Sir John Murray to that effect, but cannot recollect the hour at which I carried them with sufficient precision to answer this question ; but I never carried any order of that nature to the beach, but direct from Sir John Murray.

Q. As you say you received only two orders from Sir John Murray on the 12th of June, at what time did you receive the order for the troops to retreat to the beach ; and at what time did you receive the orders relative to the mode of their embarkation ?

A. I did not say positively, I only received two orders from Sir John Murray ; I said, I believed I received only

two. The order for the troops to march to the beach, must have been given, I think, about 1 o'clock in the afternoon, and the order, relative to the mode of embarkation, must have followed it, as the troops moved down.

Q. Do you not know that other orders and counter-orders were received by other officers, besides yourself, on that day?

A. I cannot know this; I do not recollect hearing any such.

Judge Advocate. You do not recollect hearing of any such?

A. I said, I do not recollect hearing any such—not of any such.

Rear Admiral Sir B. Hallowell. Had you any officers of your department detached on the 12th of June, after ten o'clock in the morning, for the purpose of gaining intelligence of the enemy's movements and position, and if so, be pleased to state their names, and in what directions they were detached?

A. I had not, to the best of my recollection; that was a duty Sir John Murray kept exclusively in his own hands. He may have detached some officers of the Quarter-Master General's department, for the above purpose.

Q. Do you know of any being detached?

A. I do not recollect any; if any, the General relied principally on General Copons, for intelligence of this nature, who was in his front.

Q. At what time did the Spanish officer arrive with a letter from General Copons to Sir John Murray, on the 12th of June?

A. I think it must have been a little before 8 o'clock in the morning.

Rear Admiral Sir B. Hallowell. I hope I may be allowed just to prevent General Donkin making a mistake, by requesting him to recollect whether it was not after I went up with him from the beach; perhaps, on turning it in his mind, he may find it was later than the time he has mentioned, because I was with him at the time the officer arrived.

A. I can only say, to the best of my recollection, it was about 8 o'clock.

Rear Admiral Sir B. Hallowell. I mean the officer who brought the letter.

A. I perfectly understand the question; I still think it must have been about 8 or 9 o'clock, but I cannot possibly be accurate to a nicety as to hours, when so many events

succeeded each other in so short a space of time, and at so great a distance of time from this day.

Rear Admiral Sir B. Hallowell. I beg the Court will correct me, if I am doing wrong; but I wish to set General Donkin right if I can. You will, perhaps, recollect it was when you met Sir John Murray returning from Villa Franca?

A. It was.

Q. Perhaps, on a recollection of that fact, you may be certain it was after that time?

A. No, I think Sir John Murray returned about that time; I can only speak to the best of my recollection. The Court must be aware that I can have no possible view in making it earlier or later.

Q. It appears by your evidence, that a Spanish Officer arrived at Sir John Murray's head-quarters on the 12th, about 8 o'clock; you say, that Spanish officer informed you, that De Caen's troops, at Villa Franca, were in motion, but it does not appear which way they were pointing. Did you, after receiving that intelligence, send any officer, or do you know of any officer being sent out towards Villa Franca, before the order was given to spike the guns, and burn the carriages; to ascertain whether they were coming towards Tarragona or not?

A. I will answer the first point first, if you please. It was evident, from the officer's manner and conversation, that the troops at Villa Franca, if moving, were pointing towards Tarragona, and this was confirmed on reading the letter afterwards, in which General Copons wanted Sir John Murray's instructions as to how he was to act, implying thereby, (as I conceived) an idea that he might be attacked in the course of the day. I conceive I have answered the latter part of the question, by what I have said in a former answer.

Rear Ad. Sir B. Hallowell. I do not think that is an answer to my question.

Judge Advocate. There was no occasion for him to send out to know which way they were coming, if he conceived the intelligence conveyed that.

Lieut.-Gen. Sir John Murray. May I beg that the Court will allow General Donkin to answer the questions without these repeated interruptions from Admiral Hallowell?

Lieut.-Gen. Sir Samuel Auchmuty. The Admiral may say, you have not answered that question, by putting another question, but it is certainly irregular by speaking.

Gen. Sir George Beckwith. I do think it would be more becoming and respectful to the Court, if, when a witness was giving his evidence, he should not be interrupted by one side or the other.

Major-Gen. Donkin. If it is desired, I will add, I do not recollect sending any one out, nor do I recollect any one being sent out.

Rear Ad. Sir B. Hallowell. Did you know there were 7 roads, which you have described, from Tortosa to Tarragona at the time Sir John Murray was before Tarragona; and did you ever visit them before Sir John Murray raised the siege of Tarragona?

A. I submit, that is a question as to the manner in which I executed the duties of my department as Quarter-Master-General; I have no objection to answering the question, but it is calling me to account as to the manner in which I executed my duties; I believe I do not stand here to render an account of the manner in which I did perform those duties.

Judge Advocate. It appears to me the question is material, to know whether the witness was in possession of that information at the time, or it was gained afterwards.

A. I have no objection to answer the question; I did at that time know there were several roads, but not their exact number; I did not visit them before Sir John Murray raised the siege of Tarragona, but had sent officers to visit them, and report upon them; I visited five of them afterwards, when before Tarragona with Lord William Bentinck.

Rear Ad. Sir B. Hallowell. You have said, you saw nothing discreditable in our embarkation; do you not conceive it discreditable to set fire to our batteries in the middle of the day, before an enemy's garrison, and retire to our boats when there was no other force than the enemy's garrison within many miles of you, and when you might have had advice of any enemy advancing, if you had set patrols to look out?

A. No; I do not think it discreditable; retiring or not retiring from before Tarragona, was a question to be determined upon from the proximity and force of the enemy approaching for its relief; and if such retreat were necessary at all, I do not think it more discreditable to set fire to batteries in the day time, than at any other time.

Q. When, and where, did you last communicate, personally, with Sir John Murray on the 12th of June?

A. It is quite impossible to answer that question with accuracy; I saw Sir John Murray frequently, and all day.

Judge Advocate. I think it right to mention one thing to

Admiral Hallowell; perhaps you are not aware, that in cross-examination, you have a right to lead the witness, and to put a particular time and place to the witness, which you could not do on original examination, if it will assist you in putting your questions.

Rear Ad. Sir B. Hallowell. Did you see him after sun-set?

A. I do not recollect; I think not.

Q. As Quarter-Master-General of the army under Sir John Murray, you must have had many opportunities of attending the embarkation and disembarkation of troops; do you know at what time General Clinton's division embarked, and how long they were in embarking, after arriving upon the beach?

A. General Clinton's division, I believe, embarked very late, and was attended, I think, by Sir John Murray in person; I cannot say how long it was embarking, for just at dusk, after leaving Captain Bathurst at the western extremity of the bay, I attempted to get round to Salou Bay in a boat, to superintend the embarkation of the advance there, but, after being out a considerable time, and being nearly overset from the wind and sea, I returned to the beach; it was during this time I lost sight of Sir John Murray, and I do not remember seeing him again; it was quite dark when I came back. As Quarter-Master-General of the army, I never attended the embarkation or disembarkation of troops under Sir John Murray's command, that at Tarragona, on re-embarking, excepted; and I am ready to state how this happened, if called upon to do so. I do not mean to include the embarkation at the Coll de Ballaguer, as there Lord William Bentinck commanded.

The Judge Advocate read over the answer, omitting the words, "I am ready to state how this happened, if called upon."

Lieut.-Gen. Sir J. Murray. I think General Donkin stated, that he was ready to state the reason if called upon.

Lieut.-Gen. Sir S. Auchmuty. He is not called upon at present.

Rear Ad. Sir B. Hallowell. You have not stated the hour at which General Clinton embarked?

A. I have stated that I could not tell.

Rear Ad. Sir B. Hallowell. Where were you when General Clinton's division embarked?

Judge Advocate. That, I think, he has already explained.

Rear Ad. Sir B. Hallowell. I wish to press that question; I think it is not answered yet.

A. As I cannot state, accurately, the time when General Clinton's division embarked, I cannot state where I was at that time.

Q. Were you on shore?

A. I was on shore the greater part of the night, and once tried to walk across the promontory of Salou, to get to the bay, but was so fatigued, I could not proceed.

Rear Ad. Sir B. Hallowell. I do not consider that an answer to the question.

A. I have already said, I do not know at what time they embarked.

Judge Advocate. Were you on shore at the time?

A. I cannot say, positively, whether I was or not, not knowing the exact time when that division embarked, but I rather think I was.

Rear Ad. Sir B. Hallowell. When did you go on board?

A. Late on the night of the 12th, after having tried to get round to Salou Bay in a boat, and to get there on foot, I returned so much fatigued, that I went on board a Transport to repose myself, there being no troops near me, nor in sight; the next morning, very early, I proceeded to Salou Bay.

Q. Do you know that two of the mortars, which were landed on the 10th, and four of the howitzers, which were then on the beach, were taken up to the batteries on the Oliva on that night?

A. I do not; I never had the least information as to what was going on in the batteries, nor relating to the siege.

Q. During the whole time of Sir John Murray's stay before Tarragona, do you recollect a single instance of any part of the army under his command coming in contact with the enemy, excepting with the garrison of Tarragona; I mean from the day of his landing on the 3d, till the 12th, when the siege was raised?

A. I do not, with the exception stated in the question.

Rear Ad. Sir B. Hallowell. I have no other question—I wish to present that to you—(*delivering in a paper*).

Judge Advocate. As Sir Benjamin was desired not to interpose in the examination, he requests that I will state that his motives for asking of General Donkin, whether he knew of seven roads, when he was before Tarragona, was not with any intention of calling his conduct in question, but to ascertain if Sir John Murray could have known of so many passes to facilitate the advance of Suchet at the time in question, merely that it may not be supposed that there was any thing personal intended towards General Donkin.

Lieut.-Gen. Sir John Murray. I only wish to say, that if General Donkin did not know of those roads, it was very possible that I might, and that I actually did know of them.

Judge Advocate. The difficulty of these explanations being made, is, that they lead to counter-explanations, and thus delay is occasioned.

Re-examined by Lieutenant-General Sir John Murray.

Q. Do you conceive that the enemy would have been long unacquainted with any material relaxations in the operations of the siege, and still more with the siege being raised?

A. No, I think the enemy, from his numerous spies, even in our camp, would have soon learnt, if there was either relaxation in the siege, or thoughts of raising it. By the enemy, I mean Marshal Suchet and General De Caen.

Q. Would not a knowledge of the relaxation of the operations of the siege, have left Marshal Suchet and General De Caen masters of their movement, and have given encouragement to the besieged army?

A. Yes, I think it would.

Q. If Marshal Suchet had formed a junction with General De Caen at Reus, while the Allied army was at Ballaguer, would he not, probably, have lost his communication with Valencia, by the Allied Army placing itself in the mountains, between him and the valley of the Ebro?

A. He would, if we occupied all the seven passes, the road to Montblanc exclusive.

Q. Do you not know, that on the 10th, 11th, and 12th, of June, the advance of the army was at Valles, on the road to Montblanc; that Colonel Prevost was at the Coll de Ballaguer in the road to Tortosa, and that detachments of the Catalonian army covered the different roads, leading from Villa Franca to Tarragona?

A. I know that the advance, and Colonel Prevost were at the places stated; but I never had any knowledge as to the Catalonian Army under General Copons; the communications to it, and from it, were direct between Sir John Murray and General Copons, and never through me.

Q. Supposing the Catalonian Army to have been in the situation stated in the preceding question, and Colonel Adam and Colonel Prevost to have been at Valles and the Coll de Ballaguer, as you have mentioned, did not the great duty of detaching Officers to gain intelligence, as well as of sending out patrols, rest with those advanced corps?

A. Most certainly ; and I take it for granted, they did so.

Q. Do you conceive it would have been prudent to have delayed the taking any steps relative to embarkation until the return of an Officer, who might have been sent out in consequence of the information brought by the Spanish Officer on the 12th, of the enemy's march from Villa Franca ?

A. Certainly not, supposing the embarkation had been determined upon ; for an Officer so sent out, could not give above an hour and a half or two hours' notice of the enemy's approach, before the enemy would arrive, as may be easily shewn, by a simple calculation of time and distance.

President. When you say, that Marshal Suchet would soon have obtained information of the siege being raised, do you mean within 24 hours ?

A. Yes, I think in less time, after his arrival in the mountains, which was on the 11th ; but if raised when he was on his march, the time would have been greater in proportion to his distance.

Lieutenant-General Porter. You have stated in your evidence, that on the 12th of June, intelligence was brought to you by letter by a Spanish Officer, that required immediate attention, and that Sir John Murray was absent. At what distance from your quarters, when you received this letter, was Lieutenant General Clinton, the next senior Officer ?

A. It was not in my quarters ; it was in Sir John Murray's quarters I received the letter.

Q. At what distance from you, when you received the letter, was Lieutenant-General Clinton, the next senior Officer ?

A. About a mile and a half ; and had I, on reading the letter, found it would require Lieutenant-General Clinton's interference immediately, I should have gone directly with it to him.

General Sir George Beckwith. Can you state what means of subsistence Marshal Suchet possessed on his arrival at Tortosa, to press the war in Catalonia ; embracing, in this question, not only the force under his immediate orders at that place, but extending it to all the corps co-operating with him against the allied Army, under Lieutenant-General Sir John Murray, in the vicinity of Tarragona ?

A. Marshal Suchet and the French Generals never

wanted subsistence for their troops in Catalonia or Valencia; they had ample magazines in all their fortified places and strong holds which surrounded them, from the Pyrenees to the Ebro, and formed as many points of appui for their operations; besides which every thing in the country was at their absolute uncontrouled disposal, and no inhabitant or Alcalde dared withhold supplies on their requisition to furnish them.

General Earl Ludlow. As Quarter-Master-General to the army, inform the Court, about what time it might have required to have embarked the troops before Tarragona, after the corps had marched to Ballaguer, including the ordnance and stores left in possession of the enemy.

A. This is supposing no Cavalry, or field Artillery, with the army.

President. A part having been detached to Ballaguer, it means to include every thing left at Tarragona, as having been embarked.

A. What was left, including the ordnance and stores, might I think have been embarked, if no interruption was given by the enemy, and the weather was favourable, in about a day and a half?

Lieutenant-General Montresor. Do you mean working day and night?

A. No, I mean between day light and dark, on one day, and from day light to the middle of the next day; but this is rather a loose calculation, as I was unacquainted with the quantity of stores on shore.

Lieut.-Gen. Porter. Supposing that every precaution had been taken to impede the advance of the enemy on Tarragona, such as felling the trees, breaking up the roads and bridges, overflowing the rivers to the east and west, and such other obstructions resorted to, could the enemy have advanced in such force, and in time to have seriously annoyed the embarkation of the troops, early in the morning of the 18th of June?

A. I think he could; there could be no inundations made from the rivers, as they were nearly dry, and being torrents in very deep beds; in winter the roads over the Roca de Liebre, and the Coll de St. Cristina, had been, I believe, in some degree, destroyed, as was the road from Montblanc completely; it was hardly possible to destroy the roads over the ridge near the Coll de Ballaguer, as they were in rock.

Lieut. Gen. Sir Samuel Auchmuty. You have stated in

your evidence, that a Spanish Officer brought a report about 8 o'clock, on the morning of the 12th, that the French corps at Villa Franca was in movement, considering the distance of that place, at what time must they have been in motion to enable him to make that report?

A. That must depend upon the point from which this Officer had come, he was sent by General Copons, and, although he stated the enemy were in motion, General Copons's letter did not state so; but merely confirmed their arrival the day before at Villa Franca.

Q. How many English miles is Villa Franca from Tarragona?

A. I suppose about two and thirty.

General Earl Ludlow. Under all the circumstances described, do you suppose the army remaining on shore all the night of the 12th, would have been attended with considerable, or indeed, any risk?

A. With very considerable risk, for there was no reason to suppose, in my opinion, that an enemy who had been advancing by forced marches, sometimes at the rate of above thirty miles a day, from two opposite and distant points, for the express purpose of relieving Tarragona, should stop short when they came in sight, as it were, of that fortress.

Q. Was any part of the enemy's army actually in sight of that fortress?

A. By the expression "as it were," I meant to illustrate their proximity; but Marshal Suchet's corps could see Tarragona from the mountains which were, I believe, about 25 miles distant.

Colonel Lemuel Warren, of the 27th Regiment, sworn.

Examined by Lieutenant-General Sir John Murray.

Q. What was your rank and station in the army, under my command, in Catalonia, in June, 1813?

A. I got my rank of Colonel, on the 4th of June, the day after the army landed, and commanded a Brigade in the division of General McKenzie.

Q. Had you any reason to suppose, on or about the 10th of June, that the garrison of Tarragona was stronger than you had been led to believe it to be, by previous reports?

A. I had.

Q. Have the goodness to state your reason to the Court.

A. On the 10th of June, I called upon Sir William Clinton, at his hut, on Mount Oliva, about noon, and

amongst other conversation which took place between Sir William and myself, he told me he had good information—

Judge Advocate. I submit to the Court, if this should be received, it should be from General Clinton himself, as he is here; have you any thing to state from your own knowledge?

A. From my own knowledge I cannot say any thing on the subject.

President. General Clinton is still here, of course.

Lieut. Gen. Sir J. Murray. Was the re-embarkation, on the 12th of June, conducted with regularity as far as came within your observation?

A. It appeared to me to be conducted with the most perfect regularity.

Q. Did you perceive any disorder or confusion, that could bear the construction of being discreditable or disgraceful to the service?

A. I saw nothing of the kind.

Q. From your own observations or experience, do you believe that the beach of Tarragona was always practicable for embarkation?

A. From the observations that I made during the time the army was on shore at Tarragona, of the beach, it appeared to me, that there were three or four days, three at least, during which a single battalion could not have embarked without difficulty.

Q. Do you think from the nature of the beach at Tarragona, that troops embarking in the face of an enemy could, under the protection of ships and gun-boats, have effected their embarkation without very material loss?

A. Certainly not; I think their loss must be very great in the face of an enemy.

Q. Acquainted as you are with the road from Villa Franca to Tarragona, by Torradembara, are you of opinion that gun-boats stationed at, or near the latter place, could prevent the advance of an enemy during the night or day?

A. I do not think gun-boats would prevent the march of a column even during the day; but at night certainly not.

Q. Admitting that on the evening of the 11th, or morning of the 12th of June, you had known the enemy to be at Perello, with 12,000 men, and at Villa Franca with 8000; should you have considered the embarkation of the army possible, with-

out the loss of some part of the army, its siege, or field equipment?

A. Considering the enemy at those two points, I think the army must necessarily make some sacrifice.

Q. If a sacrifice of some sort was necessary, should you not have preferred the abandonment of 17 pieces of spiked cannon, (74 pieces complete being still in our possession,) to that of any part of the cavalry, infantry, or field train of artillery?

A. Most certainly.

Q. With this view then of our situation on the morning of the 12th, should you have ventured to recommend the adoption of any proposal founded upon deferring the embarkation of the army from the 12th to the 13th of June?

A. I should not; if my opinion had been asked, I should not have given it for delaying the embarkation.

Cross-examined by Rear Ad. Sir B. Halliwell.

Q. Were you ever near the beach when the enemy has been attacked between Torradembara and Vendrills, to see the effect of the fire from gun boats upon them?

A. I never was.

Q. Did you know that the enemy was at Perello with 12,000 men on the 11th, or do you know that he was there at that time from any information you have since received?

A. I did not know that the enemy was at Perello on the 11th; but from the proceedings of this Court, which I have read in the public papers, I find he was there on the 12th, that is the only information I have upon the subject.

Judge Advocate. That is in answer to the last part of the question, whether he has subsequent information; but still that does not come to the enemy being there on the 11th. You have no information of his being there on the 11th.

A. No; I have not.

Lieut.-Gen. the Honourable Sir E. Paget. Is that last part of the answer inserted as to his reading it in the public papers?

Judge Advocate. No; I have not entered that.

Lieut.-Gen. the Honourable Sir E. Paget. For important reasons, I think it should be inserted.

Lieut.-Gen. Sir John Murray. I merely suppose Colonel Warren to be in possession of the same information I had; and then I ask what his line of conduct would have been in that situation of things.

Lieut.-Gen. the Honourable Sir E. Paget. My reason

for wishing that to be inserted, has nothing to do with the case of Sir John Murray, it respects the publication of our proceedings.

Major Gen. Samford Whittingham called in again.

Examined by Lieut.-Gen. Sir John Murray.

Q. What was your rank and station in the army under my command, in Catalonia, in June, 1813?

A. Major-General commanding a Spanish division.

Q. Did you not command a branch of the Intelligence Department of the army under my command, previous to the expedition of Tarragona, as far as related to the enemy's army of Arragon?

A. Yes.

The return of the Enemy's force in Arragon was shewn to

Major General Whittingham.

Q. Is that return of the enemy's force of the army of Arragon from the best information you could obtain, and upon which you could place reliance?

A. Yes; I have every reason to believe I could place reliance upon it; it was taken from persons whom I had found reason to believe on other occasions.

Q. How many days march do you compute it to be from Tortosa to Tarragona?

A. From Tortosa to Tarragona, I take to be about 48 English miles by the strait road, the road over the Coll de Bullaguer.

President. Can you speak to your opinion of the time it would take to march it?

A. It might be marched in about two days.

Lieut.-Gen. Sir John Murray. Supposing that I had given the enemy any reason to hope, by any relaxation in the operations of the siege, that I should not continue to press it; in what time do you suppose that intelligence could have been conveyed to Perello, or to Tortosa?

A. I cannot answer that question; because it depends upon the nature of the espionage of the enemy, how he might be served in point of space.

Q. In what time might a Catalan peasant go from Tarragona to Tortosa, by the mountain road?

A. I think he might go in 24 hours.

Q. Are you acquainted with the roads leading from Villa Franca to Tarragona; and how many do you know of?

A. There are several roads if you go round by Santa Cristina, or a little on one side of it; and there is another

also by the side of the main road; but how far that is practicable for artillery I do not know.

Q. What is your opinion of the line of the Gaya as a defensive position to cover the siege of Tarragona?

A. I do not think there is any defensive position in the neighbourhood of Tarragona; I think they might be all turned with the greatest ease.

Q. Was the embarkation on the 12th of June conducted with regularity, as far as came within your observation?

A. I think it was.

Q. Did you perceive any disorder or confusion, that could bear the construction of being discreditable or disgraceful to His Majesty's service.

A. I saw no confusion in the embarkation.

Q. Supposing that on the evening of the 11th, or the morning of the 12th, you had known the enemy to be at Perello on the 11th, with 12,000 men, and knowing that he was also at Villa Franca on the same day with 8000 men; should you have considered the embarkation of the army possible, without incurring the loss of some part of the army, or its siege or field equipments.

A. I do not pretend to judge how long the embarkation of the army would have taken up; I have not the means of forming a judgment; but if General De Caen had marched by the Coll de Saint Cristina on Reus, and Marshal Suchet through the mountain road upon the same place, I conceive they would have effected their junction early on the morning of the 13th. I mean to say this, that it would have been in the enemy's power to have brought us to action with his united force early on the morning of the 13th, and any loss, therefore, must depend upon the time it would have taken for the embarkation.

Q. With this view of our situation on the morning of the 12th, would you have ventured to recommend the adoption of any proposal founded upon deferring the embarkation of the army from the 12th to the 13th of June?

A. I certainly should not have thought it advisable to fight an action under the walls of Tarragona against the united force of Marshal Suchet and General De Caen, which must have been the consequence of deferring the embarkation till the 13th.

Cross-examined by Rear Ad. Sir B. Hollowell.

Q. What order did you receive for the movement of your division, or any part of it, on the 12th of June; and state at what hour, and by whom delivered?

A. I have no notes; but as far as I recollect; I received the order to hold myself in readiness to march between 8, and 9 o'clock in the morning; the first order it would not be easy for me to state positively by whom it was delivered; but by some officer of the staff, I think it was about 12 o'clock I received the order to march down to the beach; and when we had marched about half the distance, I received a counter order to occupy the ground, which we first occupied upon the investment of Tarragona, which was near the Oliva Battery, until further orders. I think it was about 3 o'clock we received the final order to march down to the beach for embarkation.

Q. Did you during any part of the day of the 12th, observe any thing which indicated the approach of the enemy, excepting the hurried movements made on our side?

A. I received no accounts of the movements of the enemy after the night of the 11th.

Q. Did you know that the enemy had 12,000 men at Perello on the 11th, or have you learned since from good authority that they had that force there on the day stated?

A. I was not acquainted with the arrival of the enemy at Perello, I had only known of their arrival at Tortosa; I have since had no opportunity of ascertaining whether they were there on the 11th or not.

Q. Did you know of any pass from Tortosa to Tarragona by Ballaguer during the time Sir John Murray was before Tarragona, except the high road we occupied by holding Fort St. Philippe?

A. I was not acquainted with that part of the country. I have heard say there was a mountain pass; but I did not know it from my own observation.

Q. Do you think the enemy could have passed a column along the high road from Vendrills to Tarragona, if ships and gun boats were stationed upon the Coast to interrupt them.

A. I think a column would certainly suffer some loss, but not such as to prevent their advancing, and at all events, in the night they might advance.

Q. Did Suchet's force attempt to attack our army, when you moved on nearer to him by going to Ballaguer, except by a little skirmishing with the Cavalry patrols, even as late as the 17th when we embarked there?

A. General Mc Kenzie commanded the Advance and can therefore better answer how far we were engaged. As to the body of the army with which I was, we were not attacked at all.

Q. Was the enemy ever seen by the body of our army whilst at Ballaguer?

A. I did not see them.

Q. By stationing an Officer at Villa Franca, or Arbos, to ascertain the movements of the enemy, and having detachments of Cavalry at Vendrills and Torradembara, might not correct intelligence have been hourly received at headquarters on the 12th of June, of every movement made by the enemy on that side?

A. I should think that a mounted Officer bringing in intelligence of the enemy's movements must gain some time upon the march of the enemy's column, but, on so good a road, and upon such a distance, I should think it could not exceed two or three hours.

Lieut.-Gen. Sir Samuel Auchmuty. That is not an answer to the question; the question is, in case of an Officer sending intelligence by detachments, at what time those reports would come in, of the enemy's march from Villa Franca to Tarragona, it points to Officers sending intelligence by Dragoons with relays on the road.

A. The time gained by relays, would depend upon their number, the whole distance from Villa Franca to Tarragona is nine hours, the possible time to be gained upon this distance could not at all events, I should conceive, be more than the half, that is four hours and a half, or five hours.

Rear Ad. Sir B. Hallorcell. My question is, whether hourly intelligence might not have been received.

A. No doubt, hourly intelligence might be received; what I meant by my former answer, was, that at any rate, that intelligence could not anticipate the enemy's march more than four hours and a half, or five hours.

General Earl Ludlow. From the intelligence you received, at what hour, and on what day, do you suppose Marshal Suchet's army reached Tortosa, and what was their reported force?

A. From the intelligence I received, but which I did not consider worthy of such perfect confidence as that I had been accustomed to receive in the Kingdom of Valencia, Marshal Suchet's advanced guard entered Tortosa on the 9th, and the Marshal on the 10th; his force was stated to me to be 9000 men.

Lieut.-Gen. Sir Sam. Auchmuty. You have stated, that supposing Suchet and De Caen to be the one at Perello, and the other at Villa Franca, on the night of the 11th, or the morning of the 12th, they could unite at Reus, and from

thence march to Tarragona, and attack the Allied army early on the morning of the 13th ; what distance would each of them have had to march ?

A. General De Caen would have had to march about thirty-six miles, and Marshal Suchet about thirty-two, to form a junction at Reus.

Q. You have stated that Perello is thirty-six miles from Tarragona, and that it is a day and a half's march from it. If Villa Franca is thirty-two miles from Tarragona, can there be so considerable a difference in the time of marching, as thirty-six hours from the one place, and nine hours from the other.

Judge Advocate. Is there not some mistake in the latter part of the question ?

Lieut.-Gen. Sir Samuel Auchmuty. The witness said it would take a day and a half to march from Perello to Tarragona, and that it would take nine hours to march from Villa Franca to Tarragona.

A. What I said was, that it was nine hours on thirty miles ; I did not mean nine hours marching.

Lieut.-Gen. Sir Sam. Auchmuty. I understood from the General's evidence, that an army could march in nine hours from Villa Franca to Tarragona ; and that, by relays, not more than half, or, as he explained it, four hours and a half could be gained ; and General Whittingham also said it would take thirty-six hours to march from Perello. Now, if the one is thirty-two, and the other only thirty-six, how comes there to be such a difference as between thirty-six hours and nine hours ?

A. It was not my intention to say that.

Lieutenant General Sir S. Auchmuty. Then you had better explain that.

A. I conceive Tarragona to be thirty miles from Villa Franca, and, therefore, a long day's march. Perello being considered as thirty-six miles, I have stated that it would take a day and a half, because it would, I conceive, be impossible to march it in one day ; I therefore allow a fraction over, I do not mean half of the next day.

Lieut.-Gen. Sir S. Auchmuty. If you look over General Whittingham's evidence, you will find he says it might be marched in 9 hours.

Judge Advocate. That certainly was said by implication.

The Judge Advocate read over the Evidence.

Lieut.-Gen. Sir S. Auchmuty. I should think there must be a mistake there.

A. Yes, there evidently is a mistake from the custom of

calling them hours, mixing them with leagues; by the nine hours, in my former answer, I meant nine hours of the country measurement, or about thirty miles.

General Earl Ludlow. How long would it take to march from Villa Franca to Reus by Santa Cristina; and from Tortosa to Reus, by Bandillos?

A. I believe I have stated the distance from Villa Franca to Reus to be about thirty-six miles, that would be about twelve hours. From Tortosa to Reus, by Bandillos, I have never gone, but I should judge it to be forty-four miles.

Lieutenant General Sir S. Auchmuty. I wish the question to be put, how far it is from Reus to Tarragona. I understood from a former answer, that it was only thirty-six miles from Villa Franca to Tarragona by Reus.

Judge Advocate. I have taken it that they would march that distance to form a junction at Reus.

Lieut.-Gen. Sir S. Auchmuty. I did not hear those words, and I had concluded it was a march of thirty-six miles to Tarragona. What is the distance from Reus to Tarragona?

A. About six miles; it is across the mountains, a very bad road.

Q. (*By the Court.*) In the answer you last gave, as to the thirty-six hours, did you refer to the march of an army, or of individuals?

A. In that answer I have given the absolute distance, therefore the calculation of the march of an army has nothing to do with it.

Lieut.-Gen. Sir S. Auchmuty. Do you think it would have been prudent for the enemy to attack the corps at Tarragona early on the 13th, after a march of forty-two miles, from the night of the 11th, or morning of the 12th? The General has remarked, that on the night of the 11th, or the morning of the 12th, for it is not ascertained which.

A. I said the night of the 11th.

Lieutenant General Sir S. Auchmuty. Then taking it, that on the night of the 11th, the enemy were at those points, I wish to ask, could they have marched and joined at Reus, which is thirty-six miles, and marched to Tarragona, which is 6 more, and attacked the Allied army early on the 13th; and whether he thinks that would have been a prudent measure for the enemy?

A. I do not think it would have been necessary for Marshal Suchet to have immediately attacked the Allied force; his army being in presence of the Allied army, would, I should conceive, have prevented the possibility of embarkation then, and have reduced us to the necessity of fighting.

General Earl Ludlow. How long would it take an army of 9000 men to march from Tortosa to Reus, by Bandillos ?

A. I should think they might march it in forty-two hours, coming without baggage of any kind.

Q. And how long from Villa Franca, by Santa Cristina, to Reus ?

A. I should think they might march that in about thirty-four hours.

Lieut. Gen. Porter. You mean that it could be done within the thirty-four hours, including halts ?

Lieut. Gen. Sir S. Auchmuty. Including the halts of course ; you do not mean that they would march only a mile an hour, but that the whole would be performed within that time ?

A. Certainly, that is what I mean.

Gen. Sir George Beckwith. You have stated that Marshal Suchet's march from Tortosa, by Bandillos, to Reus, but without baggage, would require forty-two hours ; do you mean with artillery ?

A. Certainly not.

Major Gen. Haviland Smith sworn.

Examined by Lieut. Gen. Sir John Murray.

Q. What was your rank and station in the army under my command, in Catalonia, in June, 1813 ?

A. I was Brigadier General, in command of a brigade in the division under the orders of General Clinton.

Q. Have you not, subsequently, commanded a division of the Allied army, quartered in Tarragona in that neighbourhood, having your head-quarters in that place ?

A. I have.

Q. From your knowledge of the place, and the positions in its immediate neighbourhood, how many troops do you think it would have been necessary to leave, for the blockade of that place, in the event of the army marching to meet the enemy advancing upon either flank ?

A. Certainly not less than 4000.

Q. From your own observations and experience, do you believe that the beach of Tarragona is always practicable for embarkation ?

A. Whilst the army was before Tarragona, I occasionally rode to the beach, and I do think that the state of the weather, and surf, was such, at times, as to have made an embarkation, particularly of the guns and animals, if practicable, certainly extremely dangerous, and slow in its progress.

Q. Do you think, from the nature of the beach at Tarragona, that troops, embarking in the face of an enemy, could, under the protection of ships and gun-boats, have effected their embarkation without material loss?

A. I do not.

Q. Was the embarkation, on the 12th of June, conducted with regularity, as far as came within your observation?

A. Perfectly so.

Q. Did you perceive any disorder or confusion that could bear the construction of being discreditable, or disgraceful, to his Majesty's service?

A. I did not.

Q. Acquainted as you are with the road from Villa Franca to Tarragona, by Torradembara, are you of opinion that gun-boats, stationed at or near the latter place, could prevent the advance of the enemy during the night or day?

A. Some parts of the road are certainly within the reach of fire from the gun-boats; but I should apprehend very little mischief from such fire, even in the day, and none whatever at night.

Q. Do you conceive that the army under General Copons, consisting of from five to six thousand effective men, and posted in front of Tarragona, was, in any degree, competent to arrest the progress of General De Caen's army, consisting of 8000 infantry, with a proportion of cavalry, and fourteen pieces of field artillery?

A. Most undoubtedly not.

Q. Do you not conceive that it would have been imprudent to have left 4000 men on shore during the night of the 12th, under the circumstance of General De Caen's column being within a day's march on the 11th, and the enemy having a garrison of 1600 men within a mile and a half of the place of embarkation?

A. I should have thought it very inadvisable.

Q. Supposing that the column under General De Caen had not arrived at day break on the 13th instant, are you not of opinion the garrison of Tarragona might have attacked the rear guard of 4000 men, engaged in covering the embarkation of seventeen pieces of heavy ordnance, and have held them in check till the arrival of a superior force, had such force been within six hours' march?

A. I should think the garrison of Tarragona might have very much embarrassed the rear guard; I do not know that it would have been able to have kept it in check, but it might have considerably annoyed it.

Q. Admitting, that on the evening of the 11th, or morning of the 12th, you had known the enemy to be at Perello on the 11th with 12,000 men, and at Villa Franca with 8000 on the same day, should you have considered the embarkation of the army possible, without the loss of some part of the army, its siege, or field equipments?

A. Under the circumstances stated, I certainly do conceive that some sacrifice must have been made.

Q. If some sacrifice must have been made, should you have preferred the abandonment of seventeen pieces of spiked cannon, seventy-four pieces, complete, being still in our possession, to that of any part of the infantry, cavalry, or field train of artillery?

A. I should conceive the heavy ordnance in the batteries of the least consequence.

Q. With this view of our situation, on the morning of the 12th, would you have ventured to recommend the adoption of any proposal, founded upon deferring the embarkation of the army, from the 12th to the 13th of June?

A. Certainly not.

Cross-examined by Rear Ad. Sir B. Hallowell.

Q. What orders did you receive on the morning of the 12th, respecting the movement of your brigade, by whom given, and at what hour did you receive them?

A. I received my orders from General Clinton, he directed me to march the troops down to the plain, and to occupy such ground as would be pointed out to me, as he intended to remain behind himself, to see the orders which he had received properly executed; the hour I do not exactly recollect, but I believe about eleven.

Q. At what time did the division, to which you belonged, under General Clinton, move from the position it occupied on the twelfth for embarkation?

A. I believe between 11 and 12.

Rear Ad. Sir B. Hallowell. The question is when they moved down for embarkation.

A. I believe about 11 o'clock at night.

Q. At what time did you embark?

A. I think between 11 and 12, it is impossible for me to ascertain the time exactly, it was about that time as nearly as I can recollect.

Q. You have said, that very little mischief was to be apprehended from the fire of gun boats against an army marching on the road from Villa Franca to Tarragona; do you think the ships could have prevented its march, know-

ing that great part of the road would be within the reach of the grape of our ships?

A. I do not believe that it is within the reach of grape from the ships; gun boats would come nearer in; I certainly do not think the ships could have prevented its advance.

Q. Is not part of the road, near the bridge, to the eastward of Tarragona, within little more than a stone's throw of the sea? the fishermen who are constantly hauling the siene there may bring this to your recollection.

A. I do not think it to be so near.

Q. Did you know on the eleventh of June, that the enemy had a force of 12,000 men at Perello; or have you, from any good information since obtained, reason to believe there was that force there on that day?

A. I did not know it; but I have since understood it to be the case, not from any certain authority, but more from general conversation.

Q. From what authority have you learnt it?

A. I have heard it whilst I was at Tarragona, afterwards from respectable people living there.

Q. Do you recollect the advance of Suchet's army on the 14th of August, 1813, towards Torradembara, and his being checked by the Volcano bomb, and the gun-boats?

A. I do not.

Q. Do you recollect Suchet appearing about that time before Torradembara, whilst the advance, under Colonel Adam, occupied Altufalla?

A. I do remember it.

Rear Ad. Sir B. Hallowell. Then, if the General recollects that, I would wish the former question to be put again. Do you recollect the advance of Suchet's army on the 14th of August, 1813, towards Torradembara, and his being checked by the Volcano bomb, and the gun boats?

A. I remember the advance of Suchet's army, but I do not remember to have heard any thing of his force being checked by the fire of the bomb and gun boats, as there stated—my answer before, referred entirely to the fire from the Volcano bomb, and the gun boats, mentioned in the latter part of the question.

It being now 3 o'clock, the Court adjourned to to-morrow morning, ten o'clock.

THIRTEENTH DAY.

Friday, 3rd February, 1815.

The Court met pursuant to Adjournment.

Major General Haviland Smith called in again.

Cross-examined by Rear Admiral Sir Benjamin Hallowell.

Q. Do you not recollect that the head of the column turned off to the village of Cressels, and halted there for the night?

A. I do not know, for I was not on the spot.

Q. By what road did Suchet finally advance with his army, when he came forward on the 15th of August to Tarragona?

A. I am not able to tell.

Q. By stationing an Officer at Vendrills or Arbos, to ascertain the movements of the enemy, and having detachments of cavalry there, and at Torradembara, might not correct intelligence have been hourly received at Head-Quarters, on the 12th of June, of every movement making by the enemy, and his advance have been ascertained to a certainty?

A. I understood, (I do not know whether it is an answer to the question,) that General Copons' corps was in that direction.

Judge Advocate. I apprehend the question refers to Officers in our army being stationed there, supposing that had been done, which the question supposes, whether hourly intelligence might not have been received at Head-Quarters?

A. I think it might.

Rear Admiral Sir Benjamin Hallowell. Do you conceive that a zealous and hearty co-operation has been afforded by the navy, serving under my orders, during the time you have been serving with the army, in Valencia and Catalonia?

A. Most certainly.

Re-examined by Lieutenant General Sir John Murray.

Q. Do you not believe, that the army of General Copons, had cavalry and Staff Officers, on the road between Villa Franca and Tarragona, on the 12th of June?

A. I do.

Q. Supposing the enemy to have marched from Villa Franca towards Tarragona, how much time could have been gained upon the enemy by any Staff Officer, stationed so near them, as to be able to give correct intelligence of their movements?

A. The Officer stationed at Arbos, would have gained seven or eight hours upon the enemy, as I think; that is, supposing he got the information at the time they started at Villa Franca.

Q. In how many hours do you think a column of 8000 men could march from Villa Franca to Tarragona?

A. I think in 12 hours: there is one part of my evidence I gave yesterday, with respect to the time of embarkation, I stated that it was impossible for me to speak accurately, it was in the cross-examination.

The answers to the two first questions of Sir Benjamin Hallowell yesterday, were read over.

A. I think I have placed both these periods rather later than they really were, but I cannot be positive.

Judge Advocate. They are not stated with certainty, but to the best of your judgment. I understand, there are no more witnesses to be called in the Defence.

Lieut. Gen. Sir Samuel Auchmuty. Are there any witnesses that it was promised the Admiral should be called again, that he might cross-examine them?

Judge Advocate. I believe they have all been called.

President. Admiral Hallowell will have it in his recollection, whether all those whose further attendance was promised, have been called.

Rear Ad. Sir Benjamin Hallowell. I believe they have.

Lieutenant-General Porter. I thought Captain Bathurst was to be called again.

Judge Advocate. Captain Bathurst stood upon a different footing from the four witnesses who were called to prove papers. Admiral Hallowell had an opportunity of cross-examining Captain Bathurst, if he wished it before. Sir John Murray merely said, he thought he should have called him again, but Sir B. Hallowell did cross-examine him. There are two letters put in, which have been proved, which I will now read.

They were read as follows.

War Department, 20th May, 1813.

SIR,

MAJOR D'Aquilar arrived in London yesterday, and

delivered to me your dispatch of the 14th ultimo, which was laid before the Prince Regent without loss of time.

I have now the grateful office of making known to you, the high approbation with which His Royal Highness has received the report of your proceedings upon the 12th and 13th of April. The Prince Regent sees, in the severe defeat sustained by the French army under Marshal Suchet's command, the most convincing proof of the judgment with which you had chosen your positions, and had conducted the previous movements of the Allied troops under your orders. His Royal Highness also observes, in the emulative gallantry displayed by the various troops engaged upon the 12th and 13th of April, the most satisfactory evidence that harmony and confidence prevail in the forces of the different nations which have been assembled under your command.

The distinguished conduct displayed by Colonel Adam in the two actions, and the eminent bravery which marked the behaviour of the Brigade under that Officer's command, have attracted the particular approbation of the Prince Regent; and His Royal Highness has seen with great pleasure, that their example was most worthily emulated upon the 13th, by the division of Spanish troops commanded by General Whittingham.

I am to convey to you, Sir, the thanks of His Royal Highness, for your services upon this occasion, when a large body of the best French troops has been completely defeated by a corps not superior in numbers, and composed for the most part of new troops, and of various nations. You will be pleased also to communicate to the General Officers, Officers, Non-Commissioned Officers, and Soldiers, of the army under your command, the gracious thanks of the Prince Regent, for the courage and discipline they have manifested in the actions of the 12th and 13th of April, which terminated in a signal defeat of the French army commanded by Marshal Suchet.

I have the honour to be,

Sir,

Your most obedient,

Humble servant,

BATHURST.

To Lieutenant-General Sir John Murray,

&c. &c. &c.

*Horse Guards,
22d May, 1813.*

SIR,

COLONEL TORRENS has laid before me your dispatch of the 14th ultimo, transmitting the copy of your report to General the Marquess of Wellington, of the success which had attended His Majesty's arms, by the defeat of the enemy in the battle of the preceding day; and having communicated with the Prince Regent upon the subject of these interesting details, I have His Royal Highness's commands, to express his high approbation of the conduct of the troops, and of the judgment and ability with which you have conducted their operations.

The steadiness and discipline of the troops, and the bravery and talents of the Officers commanding divisions, appeared to His Royal Highness to be equally deserving of admiration, in the previous encounters with the enemy, as in his final defeat on the 13th ultimo; and when it is considered that the Allied Army, acting under your orders, is variously composed of troops of different nations, some of whom have not been long organized, and that they had been opposed to superior numbers of the best-disciplined troops in the French army, His Royal Highness could not but appreciate most highly the success which has been so gloriously attained.

I have to add my personal congratulations upon this occasion, and to desire that you will convey to the troops under your command, the Prince Regent's thanks in my name, for their gallant conduct.

I have the pleasure to acquaint you, that the Prince Regent has approved of the promotion of Major D'Aguilar, the bearer of your dispatches, to the rank of Lieutenant Colonel in the army.

I am, Sir,
Your's,
FREDERICK,
Commander-in-Chief.

*Lieutenant-General Sir John Murray, Bart.
&c. &c. &c.*

Lieut. Gen. Sir John Murray,

MR. PRESIDENT AND GENTLEMEN,

I feel that I am no way justified in intruding farther on the indulgence of the Court; but the patience with which

I have been listened to, gives me encouragement to hope, that I may be permitted to concentrate the variety of matter, dispersed throughout my Defence, and bring it in a few words before you.

The grounds then, Sir, on which I found my Defence against the first Charge are these :

1st. That no documents cited by the Judge Advocate, in support of this Charge, have ever justified the inference attempted to be drawn from them.

2ndly. That, not only they contain no admission of belief on my part, of the superior numbers of the enemy, rumoured only to be then advancing, but, that every operation of the siege, up to the hour it was raised, is diametrically in opposition to such a conclusion, and, consequently, that the disbelief in the one instance is completely proved, while the inference in the other is no way established.

3rdly. That supposing any expression in my letters could be wrested into a confession, that I despaired of the capture of Tarragona, previous to the 11th, still would it avail the Judge Advocate nothing in his attempt to condemn me, for unless it be proved likewise, that I despaired at the same time of contributing to the general plans of the Duke of Wellington, and of producing an effectual diversion in favour of the Duque del Parque, which was, after all, the primary object in his Lordship's Instructions, I cannot be condemned for landing guns and stores *unnecessarily*, or continuing *unnecessarily* the siege of that fortress.

With regard to the Second Charge I have, I trust, successfully proved, first, that I have disobeyed no written order, in not proceeding directly to Valencia, after I raised the siege of Tarragona, for no such order is in my possession, and I can in no way admit the interpretation put on the word immediately, by the Judge Advocate; it refers positively to place, and in no respect to time.

2ndly. That admitting such an order to have existed, I did proceed to execute it, by directing the re-embarkation of the troops the instant the siege was raised.

3dly. That the whole army, owing to unavoidable circumstances, was never embarked entirely; and 4thly, and collaterally, that the very delay at the Coll de Ballaguer, if delay it could be called, went most effectually to withdraw the enemy from Valencia; and by retaining him when withdrawn, to produce that diversion in favour of the Duque

del Parque, which was a principal object in the Duke of Wellington's instructions. With regard to the 3d Charge, I have rested my Defence, Mr. President, on the strength, position, and movements of the enemy, as stated by the officers that have been called, and confirmed by the documents and intelligence that have been laid before you.

And, when the Court take the different measures into consideration, to which these circumstances may have given rise, I hope it will always be recollected, that after the morning of the 13th, I could no longer reckon on the possibility of sending my cavalry and artillery to the Coll de Ballaguer. The more immediate prospects of an action, or the occupation of the road by Marshal Suchet, might equally have prevented it.

I humbly, but confidently trust, that, so far from flying precipitately before the insignificant numbers stated in this Charge, it will have appeared to you, that I withdrew the army under my command, with order and regularity, from an overwhelming superiority that threatened its destruction, that it suffered no loss, except, indeed, that which I had foreseen, and for the attainment of important objects, had resolved to hazard; and that, in so doing, I not only discharged my duty at the risk of public clamour, and personal animadversion to my Sovereign and my country, but that I acted likewise in compliance with the letter, as well as with the spirit of the Duke of Wellington's instructions.

It would be unbecoming to remind you, Mr. President, of all that I have suffered, at a moment when these sufferings are about to end; but I intreat you to recollect, that mine is no common case, on which you are about to decide; every future commander is, more or less, interested in your judgment; the complaints against me have been loud and vehement—I have opposed to them silence only, united to the consciousness that I have, in no way, deserved them. These, however, have but availed me little; my military character has been aspersed, and the honour of his Majesty's arms pronounced to be degraded by my conduct.

If I am guilty of bringing dishonour upon my country, I ask no lenity, and bend before the judgment I have merited; but if this Honourable Court shall think me innocent, my earnest, last appeal is, that it will take my wounded reputation under its protection.

At a moment, like the present, I should be ashamed to

recognize any other feeling, but what arises from the humble confidence with which I now address you.

I beg, therefore, to be permitted to say, that if one word should have escaped me in the whole course of my Defence, that has borne the appearance of personality towards my accuser, I sincerely regret it.

I have defended myself from personality — I am not aware that I have ever indulged it. The obloquy and anxiety to which I have been exposed by Admiral Hallowell's representations have affected me deeply; but at this moment, I am inclined only to lament those mistakes that have arisen, perhaps, from too precipitate a zeal for the service, and which, the exercise of a little more candour towards me would certainly have prevented. Admiral Hallowell has complained that I accuse him of having withheld my letter to Sir Edward Pellew. I beg, Sir, distinctly to state, that I have no where accused Admiral Hallowell of withholding this letter with any improper intention. I simply regretted the letter was not sent at the period it was delivered to him; but I am too sensible myself, how much hasty opinions are liable to mislead, to attach any thing like blame, when I am without information.

There is yet another point, Mr. President, to which I intreat permission to call your attention.

A highly-distinguished and Honourable Member of this Court, has put a question, tending to shew the possibility of leaving a rear-guard of 4000 men on the beach, till the last moment; and of effecting, by this means, the embarkation of the ordnance and stores of every description.

I cannot be, in the smallest degree, surprized at this question of the Honourable Member, when I reflect that I entertained, for a short time, this opinion myself, under all the additional information that arose from local circumstances, and a perfect knowledge of the enemy with whom I had to contend. But, Sir, when I maturely deliberated, before deciding on a measure of so much importance, when I reflected on the situation of such a corps, left exposed upon an open beach, without the smallest advantage of position---when I considered the near approach of the enemy on the one hand, and the proximity of a fortress scarcely out of gun-shot on the other, I confess, I did not deem it either prudent or advisable to attempt it.

The garrison of Tarragona alone, would have infallibly attacked them; and, it is not too much to say, that the

troops detached from this fortress, would have assuredly succeeded in preventing an embarkation, till the closing column of the enemy should have rendered every attempt to effect it abortive.

I have not presumed to interrogate generally, the evidences who have lately appeared before you on this subject; but I have taken the liberty of selecting two officers (whose opportunities of obtaining local information, enable them best to form a judgment) to state their opinion of the practicability of this measure, under all the circumstances of our situation; and, in doing this, I beg leave to say, that it has been as much out of respect to the question of the Honourable Member, as with a view to my own justification.

The many indulgencies I have enjoyed in the course of these proceedings, make me unwilling to trouble you further; but, Sir, I am desirous, before I close these observations, to advert to one peculiar circumstance, that has marked this trial.

It is, that I have been opposed to two Prosecutors, each contending alike for my conviction, and that, with less liberality than has characterized Mr. Larpent's proceedings, I might have been thereby debarred, in a great degree, from benefitting by that assistance, which the Judge Advocate is called upon to lend the prisoner on his trial, where both his Prosecutors are equally interested to convict him. It rarely happens that any principle of impartiality, however severe, can guard against the secret impulse, to associate their means for this purpose.

It is a feeling inherent in our nature, to make a common cause with those who have in view a common object; and though the high character of the Court before which I stand, and the perfect accuracy which has throughout regulated its proceedings, have prevented me from feeling this inconvenience, still, Sir, in justice to those whom public clamour, or prematurely-formed opinions, may hereafter place in my situation, I do most humbly, and respectfully, submit my observations to the candour and discernment of this Court of honour.

Rear Admiral Sir Benjamin Halliwell. Mr. President, as several charges have appeared against me in the statement laid before the Court by Sir John Murray, I wish to have the indulgence of the Court, to call witnesses to disprove them upon oath, and I wish to offer myself as a witness to be examined upon oath, to remove the Charges

which he has laid against me; first, as to my conduct in respect of the Bristol; secondly, to give my reason for having recommended the Cavalry and Artillery going to Ballaguer; thirdly, respecting the letter, which was said to be withheld of the second of June; and fourthly, with respect to Sir John Murray's letter, the hurry in which I obliged him to send it away. I wish to prove to the Court, that every one of these statements is incorrect, and I wish to give it upon oath. The Charges have been made very seriously against me, and I am ready to disprove every one of them.

Judge Advocate. I submit to the Court, the line they would be bound to pursue is this. Admiral Hallowell is intitled to offer any evidence which has generally arisen out of the Defence, and out of the evidence in Defence; matters merely stated in Defence, and not proved, and which the Court has stopped, he will have the same opportunity of contradicting in his reply, but as to those which are actually proved in evidence, I suppose the Court will think he is at liberty to call evidence in reply, or in case the character of any of his witnesses has been attacked, he will be at liberty to support that, and I should think the Court will watch the evidence to prevent its going beyond that.

Lieut. Gen. Montessor. I believe I express the sentiments of those near me, when I say, the matter Admiral Hallowell proposes to bring forward is very foreign from the Charge before us, and is matter upon which we are not competent either to offer an opinion, or to award punishment; I think this matter is altogether so foreign to what we are here upon, that I do not see myself how we can enter into that which is the ostensible object of the Admiral.

Judge Advocate. I would submit, that the Admiral should proceed, and that the Court should watch his proof; I think that some part of it may be evidence; as to the Bristol, Sir John Murray was stopped from going into his evidence; as to the recommendation for the Cavalry going to Ballaguer, that is a part upon which we have had a great deal of evidence; however, it will be for the Admiral to point out where it is evidence. In the same way with respect to this letter of the Admiral which is put in, the Admiral says, I wish to explain under what circumstances I wrote that letter, and why it was that I was interfering with military matters.

Lieut.-Gen. Sir John Murray. I have made no Charge against the Admiral upon that point.

Judge Advocate. As to the hurry in sending away General Murray's letter, that was stopped; therefore, I think evidence in reply upon that cannot be admitted, perhaps the best way will be for the Admiral to offer the evidence, and for the Court to see how far it is to be admitted.

President. It was understood that any thing which appeared like new matter, the Admiral would be entitled to speak to, but then it must be quite new matter.

Lieut.-Gen. Sir John Murray. Mr. President, might I be allowed just to make an observation upon the offer of this evidence. It appears to me, that there is but one circumstance under which, according to my ideas of martial law, new matter can be admitted on behalf of the Prosecution, and that is where the credibility of any witness has been impeached, or the veracity of any statement called in question by the evidence adduced in the Defence; in that case it is admitted in behalf of the Prosecution to bring new evidence to invalidate the grounds of objection, but, I believe Sir, in no other. To the mere observations in the Defence, the Prosecutor is permitted to reply by mere observations; it will be remembered that they are for the most part argument, to which argument only can be opposed, and that when facts have been stated unconnected with the Charges, they are facts which the accurate strictness of this Court has not permitted me to prove, and which, consequently, rest upon my simple assertion, and by the simple assertion of my Prosecutor may be dismissed if they are not invalidated.

Judge Advocate. I would state in some measure in answer to that, that new matter introduced in the Defence, which the Prosecutor had not reason to expect, and which therefore, he could not be expected to meet in the original case, lets in evidence in reply; I mentioned, the Court will recollect, one instance of that kind, a case of mutiny, where a reason is given in the Defence, force for instance on the part of others; that may be disproved in reply, and in Trials in Criminal Courts, a prisoner has stated in his defence, The Prosecutor owes me a grudge, or he owes me money, and he wants to get me hung that I may not get my money; the prosecutor is in such a case called back to contradict that.

Lieut.-Gen. Montessor. Will you have the goodness to state what is the new matter.

President. The Prisoner is intitled to cross-examine those witnesses of course, if it should appear necessary to go into the examination.

Judge Advocate. Certainly, and to observe upon that new evidence which is adduced. I remember a case, some-

what similar to this, that of Colonel Johnson, and Admiral Bligh, in which it appeared on oath, that Admiral Bligh had concealed himself under a bed, and that he said affected him so strongly, that he wished to go into evidence, and the Court allowed him, as it was new matter, to call a witness, to prove from the shape of the bed, that that was impossible.

Lieut.-Gen. Sir John Murray. If Admiral Hallowell will have the goodness to state the new matter, the Court may then judge of it.

Judge Advocate. Sir John Murray, if you will have the goodness to watch the evidence, to see whether any thing is admitted, which you think ought not.

Lieut.-Gen. Sir John Murray. I must trust to your ability, upon such a subject as that.

Judge Advocate. But something might be offered that might escape me, it is my duty to watch it certainly; perhaps it might be advisable, that Sir Benjamin should mention, before he begins his evidence, what he is going to offer.

Rear Ad. Sir B. Hallowell. I mean to prove that there was no necessity for going away in the manner stated, that we had the means of bringing down the guns to the beach, and embarking them before the enemy could possibly arrive.

Lieutenant General Sir J. Murray. That I conceive to have been substantially the case of the prosecution.

President. That is the subject of the whole enquiry, and has been gone into before, and as far as not only the Admiral's statement, but his evidence has gone, he has proved, that was not only his opinion, but that it was the opinion of others. I think that never can be considered new matter.

Judge Advocate. It is the opinion of the Court, that that general evidence cannot be gone into now, that it was the subject of enquiry before.

Rear Ad. Sir B. Hallowell. It has been attempted to prove, that I could not afford the co-operation of the Navy to prevent the advance of the enemy; I wish to prove that the enemy were stopped, that our grape shot drove the enemy away, and that our grape-shot were then picked up, and brought on board again.

Lieutenant General Sir J. Murray. I submit that is not new matter, that the Admiral attempted to prove by the evidence of Captain Inglefield upon the prosecution.

President. As far as evidence goes that has been proved by some of the evidence, for they stated that they saw the dead bodies of men and horses, in consequence of such

fire, therefore there has been such evidence before us, and we have it upon our proceedings.

Rear Ad. Sir B. Hallowell. These are the questions I wish to put, if the Judge Advocate will have the goodness to look over them, and see whether any of them relate to new matter, (*handing in several questions*).

Lieutenant General Sir J. Murray. If the Admiral desires to put me on a second Trial, after my Defence is closed, I must throw myself upon the protection of the Court.

Judge Advocate. These questions go to contradict some of the witnesses on the part of the Defence, as to how near gun-boats might come, and what might be the effect of their fire; but upon that the Admiral gave evidence, which at the time, the Court had reason to suppose, he thought sufficient.

Rear Admiral Sir Benjamin Hallowell. I will hand in some other questions, if you will have the goodness to look at them, and say whether they are advisable now? (*handing in some other questions*).

Judge Advocate. The first seven questions which Admiral Hallowell has put in, are to General Clinton, and all go to the fact, as to Marshal Suchet's advance, and, whether he was, or not, stopped by gun-boats, in 1813, when he advanced to Tarragona. I think there was evidence originally gone into, as to the advance of Marshal Suchet.

Lieut.-Gen. Sir John Murray. Captain Inglefield's evidence went a great deal into that, and Colonel Thackeray's likewise. I certainly should not have brought any evidence upon that point, if it had not been for the evidence in the prosecution.

Judge Advocate. No, your evidence was in answer to the Case of the prosecution upon that. It is the opinion of the Court, that these questions should not be put. This question relates, to the possibility of having hourly intelligence from Villa Franca.

Lieutenant-General Sir John Murray. That evidence was adduced by the Admiral himself.

Judge Advocate. There was plenty of it upon the Defence, but whether it was all in answer to the Admiral's questions, I cannot call distinctly to mind.

Lieutenant-General Sir Samuel Auchmuty. I believe that question originated with the Admiral, it did not originate with Sir John Murray; and if it originated with the Admiral, certainly he cannot have a right to call new evidence; if it originated with Sir John Murray, I should say, that the Admiral had a right to call new evidence upon it.

Judge Advocate. It originated with the Admiral, certainly.

President. There have been two or three witnesses examined to that fact, and who state their opinion, that it might have been.

Judge Advocate. The next question proposed, is to General Clinton, as to the orders he received. It appears to me, the evidence of General Clinton has been attacked upon this point: he stated that he had received a variety of orders, and counter-orders. In part of the Defence, it has been attempted to shew, that there were but two orders. General Donkin, who was the proper person to issue those orders, says, there were but two orders; General Clinton is, therefore, proposed to be called, to explain, or confirm, his former evidence.

Lieutenant-General Montessor. That was brought forward upon the prosecution.

Judge Advocate. This is an attack upon the character and credit of the witness.

Lieutenant-General Sir John Murray. I made no attempt to disprove General Clinton's evidence, of his having received orders, and counter-orders. It was only to General Donkin that the question was put, how many orders he received. General Clinton's name was never mentioned in cross-examination, whether it was from myself or the Admiral it appeared, I do not recollect; the question was simply, as to the orders General Donkin received.

Judge Advocate. It was stated by him, that he had given only two orders, and knew of no others; which may be considered a contradiction, certainly.

Lieutenant-General Porter. It is at issue between General Donkin and General Clinton upon that.

Lieutenant-General Sir John Murray. Orders might have gone from the Adjutant General's Office, or I might have sent them myself.

Judge Advocate. It appears to me, General Clinton is at liberty to say, he had other orders, from other persons, to set up his evidence; but I only submit it to the Court, if there is any doubt about the question, it may be considered.

Lieutenant-General Sir John Murray. General Clinton has stated it, and I have never contradicted it.

General Sir George Beckwith. It would be as well to lay that aside, if there is a doubt upon it.

President. If it is necessary the Court may be cleared, to determine upon any upon which there is a doubt.

Judge Advocate. The next question to General Clinton is, as to the time of his division arriving for embarkation and the time of their embarkation.

Lieutenant-General Sir John Murray. I would beg leave to object to that question. If there was any impropriety in the time of their marching, or of their embarking, that ought to have been brought forward in the prosecution. The question has been put to General Smith, which has given that information upon his cross-examination, and if there is any impropriety, (which I am not aware there is) Admiral Hallowell ought to have pressed it in his prosecution.

Judge Advocate. I am not aware what is intended by it?

Rear Admiral Sir Benjamin Hallowell. It has been proved, by Sir John Murray, that we could not have taken off the men in less than a day and a half; and I wish to prove to the Court, that this division, of 2500 men, came down to the beach, and were embarked in three quarters of an hour. The only way, now the prosecution is closed, that I have of refuting that evidence, is to prove the time that they were in embarking. I want also, to prove, (which I can do) that we began the landing on the morning of the 3d of June, and that before twelve o'clock we had the whole of the infantry on shore, with 14 or 16 pieces of artillery, and 4 howitzers, ready to attend them; and that before three in the afternoon, the place was invested. I only mean this to prove, that we had the means of embarking.

President. I think the latter is upon our evidence, as to the manner in which they were embarked, if my memory serves me right.

Rear Admiral Sir Benjamin Hallowell. I believe the question was put to me.

President. I think I recollect that it appeared in the evidence, that they were landed within a reasonably short time, I cannot speak to the time from my recollection.

Lieutenant-General Sir John Murray. I am not aware that I have disputed the time in which 2500 men could be disembarked; the only thing I wished to substantiate, was the time it would take to embark (which is a very different thing) the infantry, cavalry, and stores.

Lieutenant-General Montrossor. The one is, the embarkation of the division, and the other, the embarkation of the division, stores, ordnance, &c. What we took the evidence upon, was the time the re-embarkation of the division would take, with all their ordnance, stores, and so on.

Judge Advocate. Perhaps I may put that question as a doubtful one. The next proposed to General Clinton is, with regard to the time it would take to remove the guns down from the battery to the beach?

Lieut.-Gen. Montessor. Upon that we had evidence from Colonel Williamson.

Judge Advocate. But besides that there is an objection to this; that it depends upon information given to General Clinton by the Commanding Officer of Artillery.

Lieut.-Gen. Montessor. The Commanding Officer of Artillery has stated that.

Lieut.-Gen. Sir John Murray. Colonel Williamson has stated that if he had 50 men, he would engage to effect it in a given time.

Lieut.-Gen. Montessor. That was the most satisfactory evidence that could be given.

Judge Advocate. The next is to another Artillery Officer upon the same subject.

Rear Ad. Sir B. Hallowell. No, it is to prove from Captain Thompson, when he would have had the guns ready to bring down.

Judge Advocate. It is to General Clinton to know what Captain Thompson told him upon that subject; the next is to General Clinton as to the cordial co-operation of the navy.

Lieut.-Gen. Sir John Murray. I have always admitted that.

Judge Advocate. I believe that is so acknowledged on all hands, that it is not necessary to prove it.

Rear Ad. Sir B. Hallowell. In Sir John Murray's Defence, he has brought a direct accusation against the navy.

Lieut.-Gen. Sir John Murray. I am very sorry I have been so misunderstood, for in my dispatches, and my private letters, I have borne testimony to the most hearty and cordial co-operation of the navy.

Rear Ad. Sir B. Hallowell. He has spoken of the evils to the service from having a naval coadjutor to retard his movements.

Lieut.-Gen. Sir John Murray. I beg your pardon, it is not so.

Rear Ad. Sir B. Hallowell. If you will have the goodness to refer to that part of the statement, it is impossible to make a more direct attack upon the character of the whole profession that I belong to. I do not stand here for myself

only, but to defend the profession to which I belong, against such a Charge, and he speaks also in his public letter, of the delays and irregularity attending the operations of the naval department.

Lieut.-Gen. Sir John Murray. That is expressly referred to the transport boats, and not to the men of war. I have certainly congratulated the Duke of Wellington, that he was fortunate enough to escape a naval co-operation; but that was in reference to the letter Admiral Hallowell thought proper to write, and the observations which, I thought without sufficient knowledge of my Case, he thought proper to make upon my conduct; I have on every occasion taken an opportunity of expressing that Admiral Hallowell gave me the most hearty co-operation.

Rear Ad. Sir B. Hallowell. I have not another word to say, I shall abide by the decision of the Court.

Judge Advocate. This can have no effect upon the Case of Sir John Murray; but it will be for the Court to consider, whether they will, in compliment to Admiral Hallowell, permit this to stand upon the minutes.

Lieut. Gen. Montressor. It is only in the Defence, and it may be answered in reply.

Lieut.-Gen. Sir J. Murray. I should be extremely glad, if my acknowledgment of the Admiral's most hearty co-operation should be entered upon the minutes, as I seem to have been very much misunderstood.

Judge Advocate. It might be inserted, perhaps, upon the minutes.

Rear Admiral Sir Benjamin Hallowell. Mr. President, I beg leave to decline accepting it in that manner.

Judge Advocate. The next question proposed, is to Captain Inglefield, how many men he could take off in the boats of the Malta, in a given time, in fine weather, to shew how soon a certain number of men could be embarked?

Rear Ad. Sir Benjamin Hallowell. If I was there by myself only?

Lieut.-Gen. Sir John Murray. That has been discussed already, in the course of the Prosecution and Defence; that point I conceive, should have been established in the Prosecution, if at all.

Judge Advocate. That appears to me to be introduced in the Defence; it is an answer to the Defence in some degree, and if there are sufficient doubts, I will leave that for consideration. The next is with regard to the opinion,

whether, if the guns were brought down on the night of the 12th, they might have been embarked before day-light ; that was gone into on the original Case ; the next is, with a view of shewing, that if they could not have been embarked on one side, they might have been embarked from the other side, in the Bay of Salou.

Lieut.-Gen. Sir John Murray. That should have formed a part of the original Case ; if the Admiral has neglected these points, I have lost the opportunity of observing upon them.

Judge Advocate. I do not remember whether it was introduced in the Defence.

Lieut.-Gen. Sir John Murray. It was never mentioned by me.

Judge Advocate. I am not aware what the next refers to ; it is whether the bulk heads of the Malta were down ?

Rear Ad. Sir B. Hallowell. It is to prove the hearty co-operation of the navy, that both the ships were prepared to come down, and attack Tarragona, whenever Sir John Murray desired it.

Lieut.-Gen. Sir John Murray. I am ready to admit that ; I did not know, nor do I now know, that the bulk heads were down, but I counted upon the Admiral's assistance, as he had promised it to me.

Judge Advocate. The Court having left one question upon that head of evidence of co-operation, perhaps they will leave that also for consideration. The next is as to the situation of the batteries ; with what view is that offered ?

Rear Ad. Sir B. Hallowell. That the Court might know the time it would take to bring down the guns to the beach.

Judge Advocate. The next is the same with regard to time, supposing working parties were furnished from the ships, without any assistance from the army.

Lieut. Gen. the Hon. H. G. Grey. To whom is that proposed ?

Judge Advocate. To Captain Inglefield, who was before called. That appears to me to stand upon the same ground as the others. The next is to Captain Inglefield, within what distance did the Malta anchor off the shore, with a view to protect the troops at Ordal.

Lieut.-Gen. Sir J. Murray. That was at the time Lord William Bentinck commanded the army, we were not near Ordal.

Rear Ad. Sir B. Hallowell. He will allow that the Malta did actually anchor within nearly half musket shot; it is to contradict the evidence which has been offered.

Judge Advocate. It is offering a fact in contradiction to the opinions of the witnesses.

Rear Ad. Sir B. Hallowell. Yes, I offer facts, I am not resting on opinions.

Lieut. Gen. Sir John Murray. I hope the Court will take that question into consideration, and consider that it relates to a fact which took place three or four months afterwards.

Judge Advocate. The next is to Captain Bathurst, with regard to the bringing of the guns, on the night of the 12th, to the beach. The next is, as to the possibility of embarking from Salou, if you could not embark from the Bay of Tarragona.

Lieut.-Gen. Sir John Murray. That was not mentioned either in the Prosecution or Defence.

Rear Ad. Sir B. Hallowell. It is to prove, that if we could not have embarked from Tarragona, we might at all events from Salou Bay.

Lieut. Gen. Sir John Murray. I should have thought that point should have been established in the course of the Prosecution, if it was made at all.

Judge Advocate. The Court have decided that the question should be considered. The next is whether the beach was not smooth on the 13th, so as to embark the guns and stores of every kind.

Lieut.-Gen. Porter. That has not been gone into.

Lieut.-Gen. Sir J. Murray. At all events that is a circumstance with which I could not be acquainted on the 12th.

Lieutenant General Sir Samuel Auchmuty. What it actually was on the 13th, could not have any effect on the mind of the Commander on the 12th, certainly?

Judge Advocate. The next relates to the time of bringing down the guns, by means of the navy only. That question, as proposed to another witness, is already rejected. The next is admitted for consideration, namely, how long the division of General Clinton was on the beach for embarkation, on the night of the 12th? The next is as to the preparation on board the Malta. The next question is proposed to be put to Colonel Williamson, how long he would have

been after dark on the 12th, in getting the guns down to the beach for embarkation ?

Lieut.-Gen. Sir Samuel Auchmuty. That was answered in the course of the Prosecution.

Judge Advocate. The Admiral wishes to know, whether he may go into evidence to shew the actual proximity of the road to the beach, on which there has been a good deal in the evidence in Defence.

Lieut.-Gen. Sir John Murray. There has been a good deal on both sides, I think.

Lieut.-Gen. Sir Samuel Auchmuty. We have already had evidence on both sides as to that.

Judge Advocate. The Admiral says he understood he might offer himself as a witness ; of course that relates to such points as the Court thought he could give evidence upon ; he wishes to know whether he is at liberty to put in Sir John Murray's letter ; that, I suppose, Sir Benjamin, is in answer to your letter ?

Rear Admiral Sir B. Hallowell. It is the answer of Sir John Murray, which is before the Court, although it has never been read.

Lieut.-Gen. Sir John Murray. I never knew of its being before the Court, and I meant to object to it whenever it should be offered. The only paper I knew of as being received, was the return of Colonel A Court.

Judge Advocate. When Sir Benjamin Hallowell put it into my hands, I said that that was not the proper time to offer it ; but it appears to me, the letter having been introduced in the Defence, the Admiral should be allowed to put in the answer, and to state how he came to write that letter.

Lieut.-Gen. Sir John Murray. Sir, I object to the introduction of that paper. I am totally ignorant of its contents, and I am not in the smallest degree aware I have any thing to apprehend from it ; but I object to it upon this principle, that the Prosecution being closed, no new matter of whatever nature can reasonably be introduced against me. If the Admiral was desirous to bring this forward, he should have done so in the first instance : to have discovered that it will assist his views after hearing my Defence, is to make my Defence serve as a weapon against me. If, Sir, in quoting the Admiral's letter, to which this paper is said to be an answer, I had either misstated its contents, or impeached its veracity, then I conceive Admiral Hallowell might have brought new evidence of whatever kind in his possession to

disprove my assertions ; but here, Sir, the reverse of all this is the case. I quote the Admiral's communication to me, and am content to abide by the letter of it, consequently, he has nothing to invalidate, and cannot reasonably be permitted to weaken or reverse his own statement.

Judge Advocate. It certainly appears to me, this letter has been opened too ; the Admiral's letter having been put in, I think the explanation of that should be admitted, whether Sir John Murray has raised any arguments upon the letter or not.

General Harris. Then the letter had better be put in for consideration.

Lieut.-Gen. Sir John Murray. I only beg the Court, when they determine upon it, to take my reasons into consideration.

Rear Ad. Sir B. Hallowell. Sir John Murray has stated, that it was in consequence of the advance of that column which is referred to in my letter of the 9th of June, that he raised the siege. I put in his letter in answer, to prove that he would not credit the report when I sent it to him.

Judge Advocate. You proposed to offer evidence as to the signal to the Bristol ; it appears to me you ought not to go into that.

Rear Ad. Sir B. Hallowell. I will abide by the decision of the Court, and every instruction I receive ; I never was before an Army Court Martial before.

Judge Advocate. That was stopped in the Defence, therefore it ought to be on both sides. The case of the letter was different, that was given in ; and, therefore, I think Admiral Hallowell should explain it if he pleases ; but in this Sir John Murray was stopped.

Lieut.-Gen. Montessor. The Court thought it not a proper matter to go into evidence upon.

Judge Advocate. Do you propose to offer any evidence as to the reason for recommending the cavalry should go to Ballaguer.

Rear Ad. Sir B. Hallowell. Yes, my own evidence.

Lieut.-Gen. Sir John Murray. I have not called in question the Admiral's advice ; but the responsibility rested with me if the advice was bad. The Court has no power to punish Admiral Hallowell ; I am the person to abide by that.

Rear Ad. Sir B. Hallowell. I should not have mentioned it, if I had not been reflected upon in part of the Case for giving that advice. Mr. Larpent finds fault, I believe, with their having taken so many different places for embarking,

which would increase the difficulty, and it is mentioned in one of the letters to Lord Wellington, that I had recommended the different places for embarkation, and I wish to give my reason for having done so.

Lieut.-Gen. Sir Samuel Auchmuty. That does not appear to me to be matter which arises out of the Defence, but out of the prosecution.

Rear Ad. Sir B. Hallowell. I believe it will be found in the Defence.

Lieut.-Gen. Sir John Murray. I have brought no evidence whatever as to advice.

Judge Advocate. I will mark that as a subject for consideration; but it does not appear to me, that that has been gone into in the Defence. If you can point it out in the Defence before the Court proceeds to the consideration, you may do so.

Rear Ad. Sir B. Hallowell. I cannot carry the whole of the Defence in my head, it is so voluminous.

Judge Advocate. I think that it is for Admiral Hallowell to shew that before they admit the evidence.

Lieut.-Gen. Sir Samuel Auchmuty. But even if it does appear upon the Defence, the line we have drawn is, not to go into evidence unless there was evidence upon it, and if it did not appear before in the Prosecution.

Judge Advocate. The other point, to which you proposed to offer yourself, was as to the hurry in which Sir John Murray was obliged to send away his letter in consequence of the ship being sent off.

Lieut.-Gen. Sir John Murray. I was stopped upon that very point.

Judge Advocate. No, I think not upon that point, a great deal of Captain Milner's evidence was upon that subject. Is there any other point upon which you offer yourself?

Rear Admiral Sir Benjamin Hallowell. I offer myself upon all points, on which the Court wish to examine me. If they think I can give information, on the 1st, 2d or 3d Charges, here I stand to be examined.

President. The Prosecution has been closed upon the 1st and 2d Charges by the Judge Advocate, as I understand; he is here to say, whether he has not closed them, or whether he wishes to examine the Admiral.

Judge Advocate. No, certainly not, I offer no evidence in reply upon the two first Charges.

Rear Admiral Sir Benjamin Hallowell. I shall notice every thing which has come from Sir John Murray, at

least many things in my reply, that I should wish to have offered upon oath, that the Court might be satisfied, that there was nothing stated there; which I was not willing to make oath to, that is my object for bringing them forward, that they might appear upon the minutes of the Court, and perhaps more consequence would be attached to them as appearing upon oath.

President. I think Sir Benjamin, you will see at once, that the Defence not being on oath, it would not be quite right to admit the reply on oath, which would give it more effect than the other could possibly have, at least so it would appear to me.

Rear Admiral Sir Benjamin Hallowell. I am very much obliged to the Court for their advice to me, and shall be happy to follow it.

President. I think it must strike your own mind?

Rear Admiral Sir Benjamin Hallowell. Yes it does, Sir.

Judge Advocate. The points upon which I have taken you to offer evidence, Sir Benjamin, are, first, the signal supposed to have been made; the evidence as to both the signals was stopped in the Defence, and therefore it is understood that it will be stopped in the reply; secondly, as to the reason for advising that the Cavalry should be sent to Ballaguer; thirdly, as to the answer by Sir John Murray to your letter, which is already in evidence, and which you wish to explain; fourthly, as to the hurry in which Sir John Murray's dispatch was sent off. Is there any other point which you wish the Court to consider.

Rear Admiral Sir B. Hallowell. Yes, as to the letter of the 2nd of June, which it is insinuated I kept back; I wish to know whether I am not at liberty to disprove that.

Lieut.-Gen. Sir John Murray. There is no insinuation on my part that it was kept back from improper motives, I only regretted it.

Judge Advocate. There is nothing upon the evidence as to the motives and reasons; it is upon the evidence that the two letters went together, but there is no insinuation against Admiral Hallowell upon the minutes. If the Court wish that to be considered, I will mark it for consideration.

Lieut.-Gen. Porter. The fact of the two letters going together of itself conveys an insinuation, does it not?

Judge Advocate. That it will be for the Court to consider.

Rear Admiral Sir B. Hallowell. There is the question as to the embarkation from Salou Bay. I suppose any points

to which I am allowed to examine evidence, I may also give evidence myself.

Judge Advocate. Certainly any point to which you are permitted to bring evidence, you may call witnesses to, or prove yourself.

Lieut.-Gen. Sir John Murray. It appears to me that which was just mentioned should have been gone into in the prosecution; I cannot be prepared to meet it now.

Judge Advocate. If there is no other point the Court had better be cleared for consideration.

The Court was cleared.

After some time the Court was re-opened.

Judge Advocate. Sir Benjamin Hallowell, I am desired by the Court to inform you, that they are of opinion the questions you proposed to put to Captains Bathurst and Inglefield should not be put, and that those witnesses should not be called back for that purpose. As to the three questions you proposed to put to General Clinton, the only one the Court think should be put is this. "What orders did you receive for the movement of your division on the 12th of June, from whom, and at what time." At the same time the Court have desired me to observe, that they think it entirely unnecessary to enter into the question of the co-operation of Rear Admiral Sir Benjamin Hallowell, and of the division of the fleet under his command before Tarragona, as they are fully and decidedly of opinion that it was most active, zealous, and cordial; and that they think the very allowing Sir Benjamin Hallowell to go into such evidence would appear to admit a doubt of the fact; as to the other points to which you proposed that you should yourself be examined, the first two were decided before the Court was cleared, namely, those as to the signal supposed to have been made. The second point is whether you should be allowed to explain your reasons for advising that the cavalry should be sent to Ballaguer, and, confining yourself to that object, the Court are disposed to let you go into that. The next was with regard to the letter which you have put in as having been an answer by Sir John Murray to a letter which is already in evidence in the Defence as written by you, the Court are of opinion that the letter, if you chuse it, may be admitted upon the minutes, but at the same time the Court do not think you should go into the reason for writing your own letter; therefore, it will be for you to judge whether it is worth while to submit this letter singly, or whether you will withdraw it altogether.

Rear Admiral Sir Benjamin Hallowell. I should wish

it to be read, but I shall go into no farther explanation than that it gives itself.

Judge Advocate. I understood you wished to go into an explanation of the reason for writing your own letter, and also to put in the answer.

Rear Admiral Sir Benjamin Hallowell. Oh no, that is an answer to a letter Sir John Murray put in; my letter to Sir John Murray, inclosed him information, this is his answer, that is all I wish to put in.

Judge Advocate. The next matter upon which you proposed evidence was, as to what has been stated in evidence by Captain Milner and others; as to the hurry of sending away Sir John Murray's letter; as to that, the Court think confining yourself to that, you may be at liberty to give that evidence; the next is as to the letters of the 2d, and the 4th of June, it being supposed you kept back the first of those letters; that the Court think you should be at liberty to explain upon oath. Perhaps the first step will be to read this letter.

Rear Admiral Sir Benjamin Hallowell. If you please.

It was read as follows :

MY DEAR SIR,

I have received, in the same words, the same report, but it is no more confirmed than the former, and I do not believe it. On the contrary, I am of opinion, that all that is arrived at Tortosa, is 2,000 men, which were sent against the Frayle; but, on the other side, they are, undoubtedly, collecting troops at Barcelona, and the more immediate probability of an attack is on that side; I have little doubt that we shall be enabled to begin the siege to-morrow in earnest, at least, Major Thackeray promises it; I believe I shall go this morning to the other side of the town, and be absent the greater part of the day; if I do so, I shall be much obliged to you, if you will let me have a boat to pass the sea faces, and I will send my horses round—I will Telegraph if I can get away.

The horse ships, I suppose, will not sail to day.

Your's, very truly,

J. MURRAY.

Have you been kind enough to get my wine from the Ibbetsa?

Judge Advocate. There is no date to this letter, it is indorsed, "supposed to be the 9th or 10th.

Rear Ad. Sir B. Hallowell. It came on board to me in

answer to my letter of the 9th; I suppose I received it late on the 9th, or at all events, the morning of the 10th; I think, most likely, it was the 10th.

Lieut.-Gen. Sir John Murray. It is not of the least importance; but I should conceive, as it is an answer to Admiral Hallowell's letter, dated at day-break, on the 9th, it was on the 9th.

Rear Ad. Sir B. Hallowell. It may have been; this letter I hold in my hand, was written by Sir John Murray.

Judge Advocate. This is a letter which I did not see till after the Court was closed, and of course it could not be entered upon in the absence of Sir John Murray.

Rear-Admiral Sir Benjamin Hallowell. It is respecting the Bristol coming to an anchor.

Lieut.-Gen. Sir John Murray. That I was not allowed to go into evidence upon.

Judge Advocate. No; and it appears to me, that that cannot be read.

Lieutenant General Sir W. Clinton called in again.

Examined by Rear Admiral Sir Benjamin Hallowell.

Q. What orders did you receive for the movement of your division on the 12th of June, from whom, and at what time?

A. The first order I received, was at an early period in the morning, that order directed me to proceed—

Lieut.-Gen. Sir John Murray. May I be allowed to ask, if that is a memorandum made at the time?

A. It is General Donkin's order; that order directed me to proceed with three battalions of my division, and three of Major General Whittingham's, shall I repeat the whole of it?

Judge Advocate. Perhaps, if you have the order given at the time, that will be the best evidence.

The Witness delivered in the Order, and it was read as follows:

Camp before Tarragona, 12th June, 1813.

SIR,—I have received Lieut.-Gen. Sir John Murray's orders to desire that you will be pleased to move with 3 battalions of your division, leaving the Estero, on the heights, and 8 battalions of Major-General Whittingham's division, towards the river Gaya, placing your right on the most favourable ground you can find, this side the river, near and behind a place called Tarran. Your march is to be made, as much as possible, out of sight of the town of Tarragona.

The object of this movement, is to cover one to be made by General Copons, who is now in the village of Aitufalla.

The Lieut.-General desires you will communicate this as an order to Major-General Whittingham.

I have the honour to be, Sir,

Your most obedient humble Servant,

R. S. DONKIN, Q. M. Gen.

This is an order to Lieut.-General Clinton.

Lieut.-Gen. Sir W. Clinton. The next order I received, as well as I can recollect, amongst the numerous orders received on that day, was also a written order, which I hold in my hand.

It was delivered in, and read as follows :

June 12th, 9, A. M.

DR. CLINTON,

I mean to assemble the army immediately; you will march with the whole of your division and General Whittingham's to Consenti, as soon as the Spaniards have marched; I send them instructions to do so.

Your's,

General Clinton.

J. MURRAY.

Lieut.-Gen. Sir W. Clinton. That order had scarcely been delivered to me, when another order, a verbal one, was brought me, directing me to send the baggage of my division on the road to Ballaguer, through, or to which pass, it was intended to march the enemy; while giving directions for conveying this order into effect, I received another order, which I also hold in my hand.

It was delivered in, and read as follows :

Half-past 9, A. M.

Notwithstanding the order to march by Consenti, Lieut.-General Clinton will now take the shortest route with his division to Head-quarters, avoiding only the enemy's fire as much as possible.

By order of the Lieut.-General,
R. S. DONKIN, Q. M. Gen.

Lieut.-Gen. Sir W. Clinton. I had not had time to give any orders, in consequence of this order, when one reached me, which directed the spiking of the guns in the batteries, and that I should proceed with my division to the beach for embarkation. I have already stated in evidence, what I did in consequence of that order; I would only beg leave to

add, in reference to what was said as to the positiveness of not of that order for the spiking of the guns, that I remember well to have held it at the time to be so positive, that although, for the reasons I have before given, I ventured to delay, to give the absolute order for spiking the guns, I instructed the officers in the batteries to fire away all their spherical case shot, and to destroy the powder; about twenty minutes after the receipt of the order to which I have just referred, came the counter-order for spiking the guns, and that General Whittingham's division should occupy the ground which mine was supposed to have left, (but from which it had not stirred) it being intended that the Spaniards should take charge of the batteries, out of which it was proposed every piece of ordnance should be taken that night. The last order I recollect to have received on the 12th of June, was one brought to me by Lieutenant Drew, of the 27th regiment, an Assistant-Quarter-Master-General, which, after the many orders and counter-orders which I had received on that day, I directed that officer to repeat, and in his presence, and in that of Captain Kersteman, Assistant-Adjutant-General of the division, and my Aid-de-Camp, Lieutenant Floyd, I noted it down—this is the order as I took it down.

Judge Advocate. Is this the copy taken at the time?

A. That was taken in my pocket book, it is nearly effaced; this is taken from it in the exact words.

It was read as follows:

Memorandum of an order received from Sir John Murray about half-past one o'clock, on the 12th of June, 1813, while at the post of the German Picket, between the 6 gun and the mortar battery, delivered to me by Lieutenant Drew, of the 27th regiment, then an Assistant Q. M. G. Viz.

“ You are to take off your division on the road to Headquarters, together with the Spanish division of General Whittingham, to withdraw all pickets, and destroy all guns in the lines.”

A true copy, from the original, as taken down by me at the time, from Lieut. Drew, of the 27th regi. } W. H. CLINTON, Lieut.-Gen.

Lieut.-Gen. Sir W. Clinton. In consequence of that order, I sent to Brigadier General Smith, to march with the divi-

sion as directed, following the movements of the Spanish troops, but detaching the grenadier company of the 58th regiment, and Lieut.-Colonel Du Plat of the 14th German regiment, to the Oliva, there to receive my orders, and then went to the Mortar Battery, where I found Captain Thompson, the artillery officer in command there, busily occupied.

Judge Advocate. Has this anything to do with the orders, because the Court wish to confine it to the orders you received?

A. It was in obedience to the orders I received.

Judge Advocate. It is connected with the question which has been put to you?

A. Yes, it is; I found Captain Thompson, the artillery officer, busily occupied in preparing for its evacuation, and I delivered him the order for the spiking of the guns, and the destruction of the carriages; proceeding, after this, to the Oliva, I remained there till 5 o'clock. I then told Colonel Du Plat, that I should leave him in charge of the picquets of the division, amounting nearly to 500 men, and I directed him to keep a good look out on all sides, for I knew not on which the enemy might not be expected, but that, unless obliged to abandon his post, he should leave the picquets and sentries as they had been posted, until dusk, at which time, and when the enemy in Tarragona could no longer perceive his movements, then quietly to withdraw them, and bringing with him the whole of the picquets, to assemble them at the bridge of Franco, where he should receive further orders. I then proceeded to the Commander of the Forces, in order to report to him the deviation which I had thought proper to make from the orders which I had received from him, in not only not withdrawing my picquets when so directed, but in reinforcing them, and my motives for having so done. Sir John Murray assented to what I had done, and merely said, "I hope you have taken measures, that your picquets shall not be cut off;" on my stating to him, that I had left them in charge of an officer, in whose good conduct I had perfect confidence, Sir John seemed perfectly satisfied.

Judge Advocate. I do not know whether Sir John Murray will wish to put any question on cross examination.

Lieut. Gen. Sir John Murray. No, none at all.

Judge Advocate. Admiral Hallowell, you will now state those facts which the Court has permitted you to state in

reply; the first is the reason for recommending the cavalry to go round by Ballaguer.

Rear Ad. Sir B. Hallowell. I will take that first, if you please.

Judge Advocate. It is understood that what you are now about to state, is as a witness upon oath.

Rear Ad. Sir B. Hallowell. Given upon oath. When I was with Sir John Murray on the night of the 11th, after he had decided on raising the siege of Tarragona, he told me, that we must get as many guns down as possible, but that the horses were out of the question; my reply was, "no, Sir, if you will send your artillery and cavalry to Ballaguer with a column of infantry, we can embark them easily there, and it will facilitate our embarkation here." I think you said, I was not to go beyond that, that I was not to go to the Bristol?

Judge Advocate. No.

Rear Ad. Sir B. Hallowell. That is all I have to say at present upon that subject. The next matter is that respecting the two letters of the 2d and 4th of June. Sir John Murray in the latter part of his statement, has acknowledged that he gave me that letter of the 2d, on the 3d, before he went on shore; I had no means of sending it immediately; I had no vessel by which I could send it immediately; the Ganymede arrived in the afternoon of the 3d, and I sent her away by 10 o'clock the next morning with Sir John Murray's 2d letter dated the 4th, and he was well aware that they both went in the same ship, as will appear by his letter which I hold in my hand; may I be allowed to read the paragraph which relates to it?

Judge Advocate. You state that to be General Murray's hand writing.

Rear Ad. Sir B. Hallowell. He is here, and can see it if he desires it; I will read it if you please, it is short.

Judge Advocate. Perhaps it had better be put in evidence.

Rear Ad. Sir B. Hallowell. If you please.

It was read as follows:

" Camp before Tarragona,
June 4.

MY DEAR SIR,

As soon as I can see Williamson, I will direct him to send some artillerymen, and 6-pounder ammunition. He will apply to you for a passage.

I fear the disembarkation of our horses and mules goes on

slowly, I wish one hundred more of the 20th division to be landed.

I send you a letter for Sir Edward Pellew; I am most anxious he should get the letters, and it is of the utmost importance that he should get them soon; can you possibly keep a vessel of war to the eastward of the town?

Your's in haste,

J. MURRAY.

Rear Ad. Sir B. Hallouell. The latter part of that letter will shew that Sir J. Murray thought a single vessel to the eastward of great importance.

Judge Advocate. That is matter for reply upon the evidence rather than of evidence in reply.

Rear Ad. Sir B. Hallouell. That is the whole upon that.

Judge Advocate. The only other point was, as to the hurry of sending away the dispatch.

A. At ten minutes after 10 in the morning of the 14th, a general signal was made to the whole fleet, that an opportunity would offer of sending letters to England. It appears by the evidence of Captain Milner, that Sir John Murray's letter was closed shortly after that time, and it appears by the evidence of Captain Sharpe, that he did not sail until half past 4 in the afternoon; that is all I have to say upon that subject. This is a letter I shewed to you, to shew there was no necessity, even in the opinion of Sir John Murray, to go away as we did. I have shewn it to the Judge Advocate.

Judge Advocate. This is all you have to say as to the supposed hurry of sending away the dispatch?

A. It is.

A letter was handed in.

Judge Advocate. It will be more correct if you state the ground upon which you offer this letter in evidence; this is not a subject which the Court have considered at all before; this is a letter of General Murray's, which Admiral Hallouell wishes to have in evidence.

Lieut.-Gen. Sir John Murray. What is the date of it?

Judge Advocate. The 19th of June, 1813.

Rear Ad. Sir B. Hallouell. It is to prove that Sir John Murray himself was convinced there was no necessity for going away in the hurry he did.

Lieut.-Gen. Sir John Murray. I conceive this cannot now be given in evidence; I object to it.

Judge Advocate. It is not to be taken for granted, that

it does prove that which the Admiral states; but that that is his inference from it.

Lieut.-Gen. Sir John Murray. I conceive that is a letter which ought to have been produced in the prosecution, if at all.

Rear Ad. Sir B. Hallowell. I have handed this letter forward two or three times, I have been guided by the Judge Advocate.

Lieut.-Gen. Sir John Murray. It seems probable if that letter is written subsequently, that after I knew of the retreat of General De Caen, and other circumstances, I might not conceive the raising the siege necessary; but at all events, those circumstances which occurred afterwards, cannot have influenced me at that time; I object to the letter in any shape.

Rear Ad. Sir B. Hallowell. I do not wish to press it.

Judge Advocate. It appears to me it is a letter which ought to have been originally produced.

President. Perhaps it is not necessary to clear the Court upon it.

Rear Ad. Sir B. Hallowell. If it is admissable I wish it to stand; if the Court have any doubt about it, I would not detain them.

President. If I may collect the sentiments of the Court from their looks, it is that the letter should not be received.

Rear Ad. Sir B. Hallowell. I only wish the Judge Advocate to say, whether he is of opinion it ought to be received.

Gen. Earl Ludlow. What was the advice you gave to Admiral Hallowell when he shewed it you.

Judge Advocate. That he ought to offer it certainly; that was the advice I gave him out of Court.

Lieut.-Gen. Sir John Murray. I submit to the Court that my opinion upon the 9th, is totally irrelevant; I was then acquainted with a variety of circumstances, and various events had taken place; there is no doubt in the world, that in consequence of General De Caen's retreat, I changed my opinion.

Gen. Earl Ludlow. It is your opinion this letter should now be received?

Judge Advocate. It is very difficult to say, it does in some degree arise out of the Defence; but it is also evidence that might have been given originally.

President. The question is, whether after the Defence has closed, a letter which is supposed to criminate, should be produced which might have been produced before?

Rear Ad. Sir B. Hallowell. May I not ask the Judge Advocate whether I have not shewn it to him?

Judge Advocate. The Admiral certainly did, and I only doubted, whether it should not have been given in evidence before.

Gen. Lord Charles Fitzroy. Did the Admiral shew it you now, or during the prosecution?

Judge Advocate. It was only since the prosecution was closed, if he had shewn it me before the prosecution was closed, I should have recommended its being produced then.

President. The question is now, whether in this stage of the trial, it is a fit paper to be received in evidence against the Prisoner, the Prosecution having been closed, and the Defence having been closed also?

Judge Advocate. I wish the Court to consider it; it appears to me it is sufficiently doubtful for them to consider it.

President. I think I understand the Court to reject it; if I am wrong, the Court will be good enough to set me right.

Judge Advocate. The letter is rejected; do you offer any other evidence.

Rear Ad. Sir B. Hallowell. Nothing more.

Judge Advocate. Sir John Murray, do you wish to make any observations upon this evidence, before the Admiral makes his reply.

Lieut.-Gen. Sir John Murray. With respect to the two letters to Sir Edward Pellew, I perfectly know that they went together.

Judge Advocate. It will be necessary for you to deliver in your observations in writing.

Lieut.-Gen. Sir John Murray. Then I must have time to prepare them.

Judge Advocate. Shall you take long?

Lieut.-Gen. Sir John Murray. No, I will prepare them this afternoon.

Judge Advocate. Then it might be shewn to Admiral Hallowell, if you will deliver it in this afternoon. If you see Sir John Murray's observations in answer this afternoon will you be prepared to go on with your reply, the same as if it was given in now?

Rear Ad. Sir B. Hallowell. Certainly.

Judge Advocate. Then the next point to consider is, when the Court will proceed to hear the replies, mine will be first.

Lieut. Gen. Montessor. Your reply is now prepared I suppose.

Judge Advocate. It is not written yet.

Rear Ad. Sir B. Hallowell. Nor mine neither.

Judge Advocate. I understand that Admiral Hallowell will be ready by Monday; I should be ready by twelve o'clock to-morrow, but if the Court were to set to-morrow, that would interrupt the Admiral, and probably prevent his being ready by Monday.

Rear Ad. Sir B. Hallowell. I will be ready by Monday, if I have no interruption, but not if I have to come into Court to-morrow.

Gen. Lord Charles Fitzroy. Why should Admiral Hallowell be present to hear the reply on the two first Charges, with which he has nothing to do; I suppose Admiral Hallowell, you do not care whether you are here, during the reply on the two first Charges?

Rear Ad. Sir B. Hallowell. If it is not necessary to the forms of the Court, I have no wish.

Gen. Lord Charles Fitzroy. You are connected with only one Charge.

Rear Ad. Sir B. Hallowell. I do not see what effect it can have upon me; it will not affect my reply, I shall not take any notice of any thing there.

Judge Advocate. There will be another irregularity, because we shall not get from Sir John Murray the commentary on the last evidence till Monday morning.

Lieut.-Gen. Sir John Murray. You shall have it this afternoon if you wish it; it may be read to-morrow before you proceed with your reply, if you please; it will not take me half an hour writing it.

Rear Ad. Sir B. Hallowell. If it will not take half an hour writing, I suppose it will not take 10 minutes reading; I could come up for ten minutes and hear that, but if he writes a volume upon it, it would break in upon my time too much.

Judge Advocate. You will be perfectly ready by Monday morning I understand.

Rear Ad. Sir B. Hallowell. Provided what Sir John Murray writes, does not call for a fresh answer from me.

Lieut.-Gen. Sir John Murray. But it certainly will.

Rear Ad. Sir B. Hallowell. If he takes the whole day to write, and brings here six or eight quires of paper for me to answer, I cannot promise to be ready.

Lieut.-Gen. Sir John Murray. Do I understand, Mr. Larpent, that you mean to make a reply?

Judge Advocate. Yes.

Lieut.-Gen. Sir John Murray. I understood, that being in possession of the grounds of my Defence before you made your opening, you did not intend it.

President. It appears to be the sense of the Court, that we should adjourn to half after twelve o'clock to-morrow to hear the Judge Advocate's reply.

Gen. Earl Lindlow. Would that break in upon the Admiral's time.

Rear Ad. Sir B. Hallowell. Not if I am kept here only ten minutes.

Judge Advocate That depends upon whether you wish to hear the reply upon the two first Charges.

Rear Ad. Sir B. Hallowell. As I shall not be permitted to reply upon that, it does not signify my hearing it.

Adjourned to to-morrow half-past twelve o'clock.

FOURTEENTH DAY.

Saturday, 4th February, 1815.

The Court met pursuant to Adjournment.

Lieut.-Gen. Sir John Murray.

MR. PRESIDENT AND GENTLEMEN,

My answer to Admiral Hallowell's observations of yesterday, shall be as short as possible. In the first place, the Admiral complains that I accuse him of having withheld my letter of the 2d June, to Sir Edward Pellew. I repeat Sir, that I never accused Admiral Hallowell of withholding it with any improper intention. I regretted the letter was not sent as soon as it was delivered to him, and I regret it still, but farther I shall not permit myself to make any observation.

The next point on which I wish to remark, is the supposed answer to the Admiral's letter, dated the 9th, 5 in the morning. This answer is indorsed June, and in pencil, supposed to be received on the 9th or 10th; I should much doubt whether it has any reference to the Admiral's letter at all, and it certainly is not established, but it is a point not worth contesting, for I can see nothing which this letter proves; when I tell the Admiral in my letter that 2000 men are arrived at Tortosa, I refer only to those mentioned in his; and he speaks of 8000 expected the previous day, and the Cavalry said to be actually at Ampullar a very short distance from Tortosa. It is these arrivals which I discredit, but I can not be supposed to deny the arrival of 1000 men positively reported to me by General Copons himself on the 4th, or at latest the 5th, and this too, when the total garrison had previous to the 9th been stated to me from the best authority to amount to 3500; my authority, Sir, was undoubted; it was from the confidential Agent of the Spanish authorities in Tortosa, who was sent to me by General Copons with the proposal that we should attack that place, offering the assistance of the inhabitants, and that they would endeavour to deliver to us a gate of the city. With such views I could not suspect that by exaggerating the numbers of the garrison he would increase the difficulties of an enterprize, for the execution of which he had thus hazarded his life by coming from the town to

our camp : I can not then very well see the object of this letter, further indeed than this, that it must prove to the Court, that on the evening of the 9th, or morning of the 10th, I feared no attack on the side of Tortosa, and consequently could have no reason whatever to raise the siege on the 7th, as the Judge Advocate has contended I should have done.

The third point I beg to reply to is the Admiral's observation, relative to the transmission of his dispatch ; and here Sir, I may be allowed to remark, that the question of secrecy seems stopped, and the Admiral almost confines himself to disprove the hurry with which the vessel was sent off. This last is a point I have never pressed upon the Court, although, I still declare, that my dispatch was written under the impression, that the vessel was to sail, and in consequence, I repeatedly desired Captain Milner to be expeditious, and no correct copy could be kept for my letter book.

The secrecy, practised by the Admiral on this occasion, I still contend, that his resolution to send this letter to England was formed as early as the 12th ; and that by mere accident I became acquainted with it ; had I not, I venture to say, no signal would have been hoisted in presence of the fleet, for the sailing of the Hyacinth, and no intimation given to the army, that an opportunity presented itself for writing to England.

The Admiral, Sir, might have dropped this question if he thought proper, and I was no way desirous to intrude it ; but since he has ventured to defend himself by impeaching the accuracy of my statement, I feel that I am called upon to support my first assertion, and I, with all respect, claim from the justice of the Court, the same advantage that has been yielded to my accuser.

Major General Donkin is still here, and though from very laudable and decorous motives he has hitherto refused to answer my question on this subject, yet am I satisfied that the Court has only to lay its commands upon him, to obtain from him a complete establishment of what I have asserted. I ask this from the justice of the Court, but in doing so, I surrender my judgment to its discretion.

Very few observations will be necessary to explain the orders given to Lieutenant General Sir W. Clinton, in the morning of the 12th, and although that officer has detailed them, and his own arrangements in consequence, with an uncommon degree of precision, I doubt not, I shall be able to account for them to the perfect satisfaction of the Court.

The first then, Sir, which Sir William has noticed, is that which directed the march of three regiments of his division, with three of General Whittingham's, to the Gaya.

My motive for giving this order, was with a view to cover a retrograde movement of the division of General Copons' army on the great road—this movement, however, was effected during the night. The troops from General Clinton's division were not required to assist it, and the order became null from that circumstance.

The two next orders may be considered, and are, in fact, one and the same. The only difference is, that the first directed a more circuitous line of march, given, probably, with the view of keeping the troops more out of sight of the garrison, which subsequently did not appear necessary. The point to which the troops were to march is the same, and the route is, surely, a matter of very minor importance.

The order for the march of the baggage to the Coll de Ballaguer, combined, as it was, with my opinion as to the probability of an early attack, I conceive to be extremely natural. All my decisions were taken in reference to the possibility of this event; and, I think, nothing could be more proper, than to send off the baggage to a place of comparative safety, whether the army was destined to follow that road, or whether it should engage the enemy, or ultimately embark at Tarragona.

The only remaining order that Sir W. Clinton received, respecting the movement of his division, was for its final march for embarkation; and when the Court is informed that this division composed the rear-guard of the army, it will not be surprised either, that some arrangements were necessary, or that I should entrust those arrangements, when otherwise so much employed, to an officer of Sir William's rank in the army.

I do very well recollect the Lieutenant-General reporting to me the directions he had given, relative to his picquets; and I do perfectly remember likewise, that nothing but the confidence I possessed in the officer who remained with them, would have made me easy as to their security.

I did not disapprove or order them to be withdrawn; and it is certainly, therefore, a fair presumption, that I sanctioned the arrangements made by the Lieutenant-General on this occasion, although I do not recollect to have been informed of them, so early as Sir William mentions.

I have seldom observed so much accuracy as Sir William

Clinton exhibits, in the preservation of orders received, and the register of those verbally conveyed to him; and this, Sir, surprizes me the more, that, on other occasions, the memory of Sir William has very much failed him, according to his own confession; nor have I ever remarked in an officer of his rank, such a remarkable tenaciousness of every little change that circumstances may render necessary—but, at this time, Sir, Sir William had not yet commanded an army in the field, or he would have had more indulgence for those deviations which he has thought proper to characterize as direct contradictions. His own experience, at present, might have given them, I should have thought, a milder denomination.

Sir William complains, that he had never time to do one thing, before he got an order to do another. It is singular enough, that the only thing he was ordered not to do, he executed with particular alacrity; and all the other things he was instructed to do, he could never find time to perform.

I allude, Sir, to his extreme promptitude in spiking the guns, immediately after Colonel Kenah quitted him with directions to suspend this operation. I should really, Sir, not have thought this proceeding, and more especially the manner of it, worthy of remark, but when I hear the Lieutenant-General commenting on my endless change of measures, and with so little reserve, I cannot refrain from observing, in some degree, upon his own.

I should have thought Sir William's own unfortunate mistake, after all the pains he took to prevent it, by concerting with the artillery officer, the very signal which was to defeat his own purpose, would have rendered him more charitable in the opinion he has thought proper to form of my inconsistencies. But I flatter myself, Sir, these inconsistencies are explained, and can have no weight in the decision of the great and important points, on which this honourable Court is called upon to decide. The Court, no doubt, will recollect I admitted that once, during the 12th, I suspended the execution of my intention of immediate embarkation, from an anxiety to meet Admiral Hallowell's wishes. To that suspension, and that suspension alone, in itself unimportant, is to be attributed, not only this apparent contradiction in the orders given to General Clinton, but also, in some measure, the different orders under which, for a very short time, the officers on the beach appeared to be acting.

Admiral Hallowell has submitted to this Court, under the private advice of the Judge Advocate, a letter, said to be written by me on the 19th of June, in which my opinion, relative to the necessity of the retreat, are said to be controverted by my own assertions. Admiral Hallowell must surely have forgotten, that he objected, only two days ago, to the reception of a letter from Mr. Tupper to me, on the simple ground that it was written subsequent to these transactions, although it had a direct reference to circumstances with which I was perfectly acquainted. And yet, Sir, in the very face of this proceeding, has he obtruded a communication on the Court, under all the grounds arising from his own objections; and with this remarkable addition, that if it does contain opinions, relative to past events, they must be founded upon facts with which I was, at the time, totally unacquainted.

It is obvious that, if I had been informed of the certain descent of Sir Edward Pellew in the Bay of Rosas, and of the subsequent retreat of General De Caen to the Llobregat in consequence of this measure, nothing could have justified the sacrifice of the guns and stores that were lost on this occasion; but ignorant, as I was, of both these circumstances till many days had elapsed after the operation, I am at a loss to understand upon what principle of justice, or of candour, this after-knowledge is cited against me. But, Sir, it is too much in unison with the rest of Admiral Hallowell's proceedings to excite my astonishment, and I think it the best mark of respect I can pay to the discernment of this honourable Court, to dismiss it without further observation.—I beg leave to call General Donkin.

Judge Advocate. You cannot call General Donkin, you have no right to call any more witnesses; you may apply to the Court, and the Court may call him if they think proper, but it rests with the Court.

Lieutenant General Sir John Murray. I beg your pardon, I was not acquainted with the forms of the Court.

President. You must state what are the questions, and the Court will consider whether they shall propose them.

Judge Advocate. Sir John Murray has proposed, that General Donkin should be called by the Court on a point he has suggested. I would state, that in answer to that, Admiral Hallowell informs me, that, if that is the case, he shall require to go into the other evidence upon that point, which he was stopped from going into by the Court; it appears to me it is a point not at all material to the deci-

sion of the Court, therefore, unless it is suggested by the Court, that it is a point on which they think General Donkin should be called, I will proceed with my reply.

Lieutenant General Sir John Murray. Am I to understand that the Court do not call General Donkin?

President. I understand it must emanate from the Court, and, I believe, it is considered as declined by the Court.

General Nicholls. General Clinton was called before by Admiral Hallowell.

Lieutenant General Sir Samuel Auchmuty. That was evidence in reply, and the Court decided, that Admiral Hallowell had then a right to call him, which Sir John Murray has not.

Lieutenant General Porter. The Defendant cannot call any witnesses, it rests with the Court entirely.

President. If General Nicholls should persevere in his wish to have this considered, the Court must be cleared; if he does not feel that necessary, I believe the opinion of the Court in general is, that General Donkin should not be called.

General Nicholls. If the one was regularly done, and the other would not be, I do not presume to press the point.

Lieutenant General Sir John Murray. I offer the evidence of General Donkin, only in reply to what the Admiral said yesterday.

Lieutenant General Porter. I believe there never was an instance of the kind.

President. I perfectly recollect the circumstance alluded to, but I should doubt the necessity of our going into it.

Judge Advocate. Do you wish your tender of the evidence to be entered, Sir John Murray?

Lieutenant General Sir John Murray. I should wish, certainly, that that should be entered as it stands in my observations, and that it was over-ruled by the Court, if the Court do over-rule it.

Judge Advocate. I have entered that Sir John Murray requested that the Court would have the goodness to call back Major Donkin, for the purpose of examining him, as to the matter stated in his last summing up, as to the Admiral having sent his letters of the 2d and 4th of June at the same time.

Lieutenant General Sir John Murray. No, that has nothing to do with it; it relates to the secrecy with which the Admiral intended to send off his own dispatch on the 14th.

Lieutenant General Porter. But General Murray promised to call back General Donkin himself.

Judge Advocate. I hope the Court clearly understand, that neither party has now a right to call back any witness; but that, if the Court see any contradiction in the evidence, that is sufficient to justify them in calling back a witness.

Lieut. Gen. Sir John Murray. I beg to say, that I was not aware that it rested with the Court; but as soon as I was informed of that, I made it matter of request to the Court.

Judge Advocate. I have entered, that General Murray requested of the Court, that Major General Donkin should be called, as to the secrecy with which the Admiral intended to send off his dispatch on the 14th of June, that the Court were of opinion it was immaterial to the Case, and that they declined calling the witness.

Rear Ad. Sir B. Hollowell. Mr. Judge Advocate, I have handed in a note respecting General Clinton.

Judge Advocate. I suppose that to depend, in some measure, on General Donkin being called.

Rear Ad. Sir B. Hollowell. After the observation of Sir John Murray, tending to invalidate the testimony of one of my witnesses, I only wish to know, whether I may not call him to answer that accusation.

Judge Advocate. I should conceive not; the paper put in by Sir Benjamin Hollowell is this: if a reflection on one of my witnesses is allowed to stand, may he not be called back, to give a satisfactory reason for the evidence he has given? I apprehend that stands upon the same footing as the request of Sir John Murray.

Lieut. Gen. Sir Sam. Auchmuty. If the Court feel it necessary to call back either of the witnesses, they will do it.

Rear Ad. Sir B. Hollowell. I have only felt it proper, in justice to General Clinton, to propose this, as he has been attacked in the manner he has been.

President. I understand the Court do not feel it necessary to call back General Clinton.

Rear Ad. Sir B. Hollowell. Mr. President, may I have your permission, and the permission of the Court, to withdraw, while Mr. Larpent's reply is reading, as I am occupied in preparing my reply for Monday.

President. I do not understand from the Judge Advocate, Admiral Hollowell, that your attendance is at all necessary,

therefore if you choose to withdraw, the Court can have no objection to it.

Judge Advocate. There is one observation I will make before the Admiral goes, in consequence of one word which escaped Sir John Murray; something has been said, which, I suppose, has a meaning as to private advice to Admiral Hallowell to produce a letter; what that alludes to I do not know, but my course, with respect to both parties, has been, to give them the best advice in my power, when they have proposed any questions to me: the Admiral asked me whether he should produce that letter, and I said there was, in my opinion, sufficient doubt upon it to justify his offering it, and that, when it was offered, I would give the best advice to the Court that I could upon it; but if I were to reject all those letters, when they are shewn to me out of Court, I should, in fact, be executing that which is the duty of the Court; I have done that to both parties, and, I believe, more to Sir John Murray than to Admiral Hallowell.

Lieutenant General Sir John Murray. I beg to say, that I meant it in no other sense than that you have done it out of Court.

Judge Advocate. I thought it proper to make that remark in the presence of the Admiral, that he might hear what I stated.

Rear Admiral Hallowell withdrew.

Judge Advocate.

MR. PRESIDENT AND GENTLEMEN,

It was my wish, had my duty as the Prosecutor on the two first Charges permitted, not to have troubled you with my reply upon that part of the Case, but Sir John Murray, as the Court must recollect, having in such a variety of observations attacked the reasoning and arguments which I had founded upon his own letters in support of those Charges, and having in several instances thought it advisable (and I admit he was perfectly prudent and justified in so doing) to change his plan of defence, and if I may so express myself, to take up a new ground quite different from that on which he stood in those letters, upon which the Charges, as well as my proof, were founded, I do feel myself called upon to claim the usual privilege of a Prosecutor, and to make some observations in reply, but as I conceive the greater part of what you have even now heard, will, as far as I am concerned, be found, when duly

considered, to be already answered in that first address which I had the honour to deliver here, I shall, of course, not occupy much of your time in re-stating that to which you have the means of reference in the minutes of your proceedings. I must beg, however, that as to all the points which I now omit to mention, the Court will keep my former statement in its recollection, and trusting to this, I shall endeavour to bring my reply within such limits, as shall not much contribute to the further exhausting that patience which has already endured so severe a trial.

It will be my anxious desire, in this part of the Case, as it was in the former, not to be considered as pressing any point in the least beyond the strict boundary of propriety, but though, of course, I must be naturally gratified, if in doing my duty, I shall be considered as deserving those compliments, which Sir John Murray so handsomely bestowed upon me in his Defence, yet still, Gentlemen, my duty must be done, even at the hazard of giving offence. I hope, however, that I need not assure the Court, that my only guide will be my own feelings, as to the line of conduct which I ought conscientiously to pursue in the very awkward and delicate situation in which, by the double nature of the office, I am placed. The only object which I now have in view myself, or which my instructions point out to me, is to endeavour to do away any impressions which may have been produced by the arguments you have heard, and which to me, at least, appear fallacious, and to put the whole Case fair and straight before you, for your impartial consideration.

The Court must be aware, I have had no time for much consideration or arrangement, I shall in a great measure, therefore, follow the Defence, and take up each point which it may not seem to me sufficiently satisfactory to leave upon my opening address in the order in which I find it occur in the statement opposed to it.

One of the first passages which attracts my notice, is a complaint of the difficulties in which Sir John Murray feels himself involved in his Defence, in meeting the 1st and 3d Charge, at the same time, from their contrariety. I have already, I hope, shewn to the satisfaction of the Court, that there is, in fact, no inconsistency in those Charges, and if he is under any such difficulty, it must arise from his own conduct, and not from the manner in which those Charges are framed. There would be one plain short

answer, as it appears to me, to both at the same time, provided only it could be proved, and this alone must convince you, that the Charges are not in themselves contradictory. The answer I mean, is this—Previous to the 11th, at night, I had never heard of Marshal Suchet's approach, but only of De Caen's; being, therefore, prepared to continue the siege, and to fight De Caen alone, if necessary, and knowing only of his approach, I did continue the siege up to the night of the 11th; but then, when I suddenly heard for the first time, that Marshal Suchet in great force was so near me, that it became impossible to save the whole without risking a general action, in which I might almost lose the whole, I determined to raise the siege in the way I did, and sacrifice the part which was the least important. This plain Defence to the whole, however, involves two main points, which must be proved; first, that he had no good reason to believe Marshal Suchet was on the advance before the evening of the 11th; and secondly, that Marshal Suchet, when he was heard of, was so near, and in such force, as to make what was done absolutely necessary. If Marshal Suchet had, as it were, suddenly descended from the clouds with his 12,000 men, in the vicinity of Perello, on the morning of the 11th of June, when Sir John Murray had reason to believe him to be on the Xucar, I should most readily admit, that his conduct in raising the siege was most completely justifiable and proper, and that he ought to be immediately acquitted on both the 1st and 3d Charges. I do conceive, however, that I have already proved, in a most satisfactory manner, that, previous to the 10th, he had received information, which he believed also, that Suchet was on the advance, not that he was actually arrived at Perello certainly, but on the advance, and the time of his probable arrival, was mere matter of calculation, and should have been acted upon accordingly.

It is next said, that I must, to support the 1st Charge, not only prove that Sir John Murray had had the information stated, but that he believed it, and that in fact I have given evidence of neither. If by this is intended merely that I have called no witnesses to either, it is true; but the reason was, that I conceived I had no occasion for so doing, as the Case was sufficiently proved by Sir John Murray's own testimony without. As to what is said about the impossibility of diving into the recesses of his mind, and knowing what he did or what he did not believe, provided he had never, either by actions or words, disclosed what was concealed there, this objection would be intelligible enough,

and certainly I should have had some serious obstacles in my way. As I conceive, however, the secret has been in this instance betrayed by himself, both by his actions and by his own confession in his letters, my difficulties are considerably lessened, and, if I am not mistaken, a re-perusal of the letters which I have given in evidence, and one or two observations which I shall now make, will fully convince the Court, that I have surmounted them; and here, as Sir John Murray has so boldly stated that I have given no evidence, I must beg to recall the attention of the Court particularly to his different letters, and to remind them, that they were as much evidence before the Court, as if I had proved the facts contained in them, and until they are disproved, should be considered as the most satisfactory evidence, being that of a person who cannot be supposed to have any unfavourable bias against his own interests. With regard to the idea that I ought to have proved the landing or continuing on shore of superfluous stores, not required for the siege, (provided that was to be persevered in) I very confidently assert on this Charge, I was bound to no proof of the kind. My Case is this, that I have shewn, most clearly, from Sir John Murray's own letters, that he had every reason to form, and actually had formed a very decided opinion, that Tarragona could not fall within a certain period, and, that he had also received information, which he had every reason to believe, and which, I boldly also maintain, from those same letters, it appears demonstrated, he did also, in point of fact, believe, that before that period would expire, a superior force of the enemy, according to all the rational calculation of probabilities upon which a man ought to act, would be near him, and that the siege must in consequence, be inevitably abandoned. All, then, that was unnecessarily exposed, after these facts had been once established, were exposed in vain, and by this means the 1st Charge is fully substantiated. Let us consider, however, a moment, how the fact stands as to when the information was received of the approach of the different corps of the enemy; as to that under Gen. De Caen, it is out of all doubt, from the whole of the case, that that was known in time to have saved every thing; in case there should be any doubt, however, as to this matter, I must just point out that Sir John Murray, in his present Defence, states, that on the evening of the 10th, he received positive intelligence that by forced marches De Caen had reached the Llobregat, and that he was advancing with rapidity; this he has also proved in

evidence; next as to the report of Suchet, as it was the approach of the two together, which made it necessary to raise the siege. In the letter of the 23d of June, it is distinctly stated, that Sir John Murray, on the 9th, received advice by express, that Marshal Suchet had left Valencia for Tortosa on the 7th, with 9000 men, and that he was advancing with the utmost rapidity, and, further, that it was previously known that 1000 men had arrived at Tortosa, and 2000 at Lerida. This is clearly in evidence, therefore, and it is stated as authentic information, and in a way which, coupled with the rest of the letter, demonstrates, that it was believed by Sir John Murray. Without referring to the other letters, this alone is sufficient for my purpose, and the Court must observe, that even if they should think the proofs of the intelligence which have been given during his Defence, do not fully support the statement in his own letter, which, however, I think they do, it does not at all follow, that that statement is incorrect, as Sir John Murray has declared, that one of the hardships of his Case is, that he had received much information, which he now finds himself unable to substantiate in evidence, and thus the confession in his letters, written at the time, is much more satisfactory than his proof now to this point. Even in the present Defence, however, we have it admitted, that Sir John Murray knew before the 7th, that strong detachments had arrived at Tortosa, and though he adds, that this was only precaution, he must also have known, that it would naturally form a sort of advanced guard ready to push on the moment the troops from Valencia came within reach to support them; and in the present Defence also, we have it broadly stated, that all doubt as to Marshal Suchet's movements to the north, was removed on the 8th, as on the morning of that day, authentic and confidential intelligence reached Sir John Murray, that 9000 men from the position of the Xucar, had quitted Valencia, and that Marshal Suchet himself was following them. This, I conclude, principally alluded to Don Larente's information, which the Court have had in evidence, and which it is evident Sir John Murray even now states, that he believed at the time. In addition to this, we find by the documents given in evidence in the Defence now, that all the documents received, concurred in confirming those reports. Mr. Tupper's letters of the 7th and 8th, shew at least the intention of Marshal Suchet to move on, and one of them an actual movement. Admiral Hallowell's letter speaks to the same fact, and the news from Perello of the 10th, is still more decisive. In

short, every thing shews that Sir John Murray had reason to believe that Suchet was on his march, and the whole tenor of his letters written before he saw the effect of this admission, proves, most decidedly, that he actually did believe it. We should not, otherwise, find him stating, that unless Tarragona fell in six days, he never expected it to fall at all; for why not, unless he thought Suchet was coming up, as De Caen he was prepared to fight? Neither should we find him condemning himself so repeatedly for having continued the siege so long, unless on this belief. How was it he could say, that before the 11th he saw the moment when, in all prudence, the cannon ought to have been embarked, unless it was that he had believed the intelligence he had received of Suchet's approach, for as to De Caen alone, as I have before said, and must now repeat, we find him prepared for that, and ready to persevere in the siege, notwithstanding, it would only be the belief of the information of Suchet's approach, which made him so foresee the moment when, in all prudence, the guns ought to have been embarked; and so, when after mentioning the news received on the 9th, in his letter of the 14th, Sir John Murray adds, that in four or five days Marshal Suchet would be able to attack him with above 20,000 men. This must mean in four or five days from the 9th, and shows, in a degree at least, that he believed the news. For if it only meant in four or five days from the 14th, the date of the letter, where was the necessity of spiking the guns which one night more would have preserved? As to the letter of the 7th, which speaks of rumours which turned out to be false, even those were only false as to the actual particular time of the arrival of the force of Marshal Suchet at Tortosa, but proved fully that he was expected, and that preparations were making in consequence; and besides this, I never stated more as to the letter of the 7th, than that it was sufficient to have put Sir John Murray on his guard, and to look forward and be prepared for what (from the expressions in that letter), I do state, he even then foresaw to be likely to be the result of his siege; and this letter of the 7th, leads me to another part of the Defence, in which Sir John Murray contends, that because I have in the Charge mentioned the time from the 7th to the 12th, that, therefore, I am compelled to substantiate that he was doing wrong every day during the whole of that period, and seems to think, that if he was right up to the 10th, that the losing the guns, because he did not then take proper precaution, was a matter for which he was in no way

to blame; the only reason, however, for putting in from the 7th to the 12th, was to cover the whole period, and to admit me to prove, that during any part of that time he was committing the military offence, mentioned in the Charge, lest if I put in merely the 10th, I should have been turned round, by confining myself to that one day; and so the terms landing, or continuing on shore, were intended merely to cover both, as if I had put merely landing on the 10th, I should have been told they were all landed on the 9th, perhaps; whereas, as the Charge now stands, all I have to shew is, that Sir John Murray either improperly landed some guns and stores, or improperly kept on shore others, which ought to have been put on board during some part of the period mentioned in the Charge; and, if I do that, as I contend I have done very fully, the Charge is proved. It never could be supposed, as Sir John Murray contends, that I must prove both a landing, and a continuing on shore, improperly, during every day from the 7th to the 12th; those were the two extremes only between which I was bound to prove my Case, and inserted merely to prevent any cavil or objection of the very sort that I am now answering. In another place, Sir John Murray states in his Defence, that Don Larente's information was only this, that Suchet had moved from the Xucar, and fallen back through Valencia, but that it did not proceed positively to state where he was going. Now, in the first place I would ask, for what purpose could Marshal Suchet be supposed to have left his strong position, and decline taking advantage of the glorious opportunity which Sir John Murray says he had, of almost annihilating the army of the Duque del Parque, and just at the very moment, too, after it had been ascertained where Sir John Murray was gone to? Why, I say, should he have sacrificed these advantages, but to go and succour Tarragona? The plan was obvious, all the reports confirmed it, as we have seen in evidence at this trial, and Sir John Murray himself, it will be recollected, formerly stated in his letter of the 23d, that Suchet was advancing from Valencia with the utmost rapidity; and in one place he adds, towards Tortosa; though, upon this part of his intelligence, (however it was obtained) he is now very prudently silent.

It is then argued, that the siege of Tarragona was never intended as a mere feint, that a greater object was in view, (and so there certainly was) as long as there was the least reasonable prospect remaining of success in that object.

But on the 10th we have Sir John Murray even now, in his present Defence, admitting, that it had become a question with him, whether a part of the battering train should be risked, or the army embarked? On the 10th, the fact certainly was, and Sir John Murray believed it to be so, that every rational prospect of success was at an end; but then, we are told, it had become necessary to risk these objects, for the sake of producing a moral effect. The practical effect produced by this conduct, in the loss of the guns and stores, I can discover plainly enough, but what occasion there was for this moral effect, or how it was thus produced, I have yet to discover; the effect of what had been done previous to the 10th, though it is asserted, that the batteries had never been fairly opened before that time, was still sufficient to cause De Caen to assemble at Barcelona, and to put himself in a condition to march to Tarragona, and also to induce Suchet to abandon his position on the Xucar, and march through Valencia for Tortosa; this was the practical effect actually produced by what had been done, without exposing the ten additional guns and mortars in the batteries that night, and without landing the additional stores which were landed that day and the 11th, to be all abandoned on the 12th. Marshal Suchet was advancing before he knew of this, and how any bad moral effect could be produced by not doing, what no one, till it was done, could ever have known it had been his intention to do, namely, to arm two new batteries on that night, and land more stores in the day, I cannot discover.

Sir John Murray has naturally endeavoured to make it appear to the Court, as if he had no alternative between that line of conduct which he pursued (namely, the pushing the siege in every way up to the night of the 11th, even after he had received the intelligence of the approach of Marshal Suchet) and the raising the siege in toto at once, and re-embarking on the 10th. Now, if I were really reduced to determine between these two measures, I should stand upon the last, most clearly, and say that he ought not only to have desisted from landing more guns and stores after that period, but that if reduced to such an alternative, it was his bounden duty to have abandoned the siege on the 10th; and in this, I have the decided support, upon oath, of Major General Donkin, the Quarter-Master-General of the Army, and the person, therefore, on every account, the best qualified to form, and give an opinion, upon the subject. To me, however, there does appear a very marked distinction, and that there was a third line to be

pursued, which I submit, Sir John Murray was in duty bound to have adopted, and for not having done which the first Charge was framed; and what bad effects, I beg to ask, could have arisen from having taken the common precaution, of not unnecessarily exposing more guns and stores on the night of the 10th, and on the 11th, when all rational hope of success, and all fair grounds of their being of the least substantial benefit, as to the ultimate fall of Tarragona, were decidedly at an end?

And here, I must take the permission, in illustration of this doctrine, of alluding to a Case, which happened very shortly afterwards on the opposite coast of Spain: a Case similar, in almost every respect, except in the conduct of the General who commanded; I allude to what passed at St. Sebastian, during the siege of that fortress, carried on in the autumn of the same year, by the Duke of Wellington, one of the first Generals of this, or of any other age. In the midst of the operations of the siege, almost at the moment when the breaches were practicable, and the assault was upon the point of being made, the Duke of Dalmatia made a desperate effort, both to relieve the garrison of Pampeluna from the blockade of Don Carlos, and his Spanish Army, and at the same time to oblige the Duke of Wellington to raise the siege of St. Sebastian by turning the right of his position in the Pyrenees altogether, and thus at the same time compelling him to retire his left from the latter fortress. The object of the English General, namely, the capture of St. Sebastian, was, at the least, as important in every way as that of Tarragona; the state of the siege was much more advanced; the consequence of every day's delay before St. Sebastian, was scarcely to be calculated, and yet, gentlemen, what was the conduct of the Duke on this occasion. During the period that the operation on his right remained in suspense, and the effect of the French Marshal's attack was yet undecided, in order to be prepared against the worst, he ordered the heavy ordnance to be removed from the batteries at St. Sebastian, and placed in safety with the greatest diligence and the utmost labour; every thing was prepared in case of failure near Pampeluna, to avoid any losses which might be considered as disreputable to the British arms before St. Sebastian, should it turn out to be necessary to abandon that siege altogether; and though the operations were by these measures retarded considerably, still the Duke thought he was not justified in trusting his battering train, even to the common chance of war, and the ordinary hazard of for-

tune; and yet, Gentlemen, if there ever was a General who at such a moment in his glorious career, would have been completely authorized in trusting to fortune's favour, and his own skill, the Duke of Wellington was that General; if ever there was a General, I say, who would have been justified in drawing thus largely on the ample stock of character and reputation which he had acquired, the Duke was that General. The object was one of the utmost importance; failure might have excited regret, but scarcely censure, and his glorious successes would have instantly buried this speck in his military conduct in oblivion; and yet, Gentlemen, the Duke of Wellington felt that he dared not to do at St. Sebastian, as Sir John Murray did at Tarragona. Having just mentioned an opinion of the Quarter-Master-General of Sir John Murray's army, General Donkin, that the siege according to his information as to the state of Tarragona and movements of the enemy, ought to have been abandoned on the 10th, I will just advert to the answers to two or three of the very few questions with which I troubled the Court in cross examination of that same witness, whom I selected for that purpose, merely because it appeared that his testimony ought to have the most weight; I mean principally, that to which the General's answer was as follows:—"Sir John Murray told me on the 9th, it was his determination to raise the siege, and left me, as I supposed, to make arrangements about it." Now, independent of the consideration of this, as a proof of indecision, and as evidence under the 3d Charge, I have one observation to make on this answer, which seems to me incontrovertible. How could Sir John Murray ever have even thought of acting thus; much more, how could he ever have been induced to mention this to his Quarter-Master-General, who, from his own evidence, and from Sir John Murray's statement also, appears never to have been consulted, until the measure under consideration was decided upon (no great proof by the bye of much confidence)? How, I say, could such a plan as this have ever so seriously entered into Sir John Murray's contemplation, as to be mentioned in such a manner as to leave General Donkin to suppose, when he left him, he was going to give orders accordingly, unless he believed (as every thing proves he did do,) the intelligence as to Marshal Suchet's approach, the Court still recollecting, that that of De Caen alone would never have made him raise the siege? Must he not then have believed in the approach of the two, that is, of the much expected arrival of Suchet, when he thus on the 9th

came to this serious resolution of raising the siege, though in point of fact (for what reason I cannot tell,) he afterwards changed his opinions and plans? The same witness also informed the Court, that on the 9th of June, he forewarned Sir John Murray as to losing the guns, saying, he hoped it would not be the case; and he further added, that no precautions were even up to the night of the 11th taken by Sir John Murray to prevent such losses, nor any preparations made in case of the raising of the siege, though he had then already conceived the danger so imminent, that he had once, at that very time, actually resolved upon doing so on the night of the 11th. Sir John Murray states, that the news was brought for the first time, that Suchet had actually arrived at Tortosa, and had marched from thence, and this is put in in a way to make the Court imagine that this was the first credible account which had been received of Suchet's approach, as if there had never been any reports worthy of being acted upon before; but the truth is, (as we have seen) that though it was true he might never before that night have heard of Suchet's actual arrival, within a distance to create such alarm, there had been most confidential and genuine reports of his being on the march towards Tortosa, received nearly three whole days before, and confirmed in every way, and believed also, and that he was using the utmost rapidity in his movements. The number of days, therefore, in which he might be reasonably expected actually to arrive near Tarragona, was a mere matter of calculation for the Quarter-Master-General's office, and, in fact, we find Sir John Murray, from his letters, had made that calculation about the 9th, and has estimated that he would arrive in four or five days. With the information, therefore, received, and possessing the power of calculation, why act thus if the enemy was not moving, and expose the guns for no use; why not act upon these probabilities by calculation in the case when he was four or five days march distant, as well as when he was supposed to be at Perello and Villa Franca? When he was at these three last places, the calculation was made on a supposition of a march, rapid beyond even the usual rapidity of French troops, where they have an object in view which requires it; and the result of this calculated rapidity of their arrival, was the abandoning of what was left behind. Now, by acting equally on the calculation of their probable arrival from Valencia, every thing might have been preserved in time, why then not act on both calculations equally; why in one case give the enemy credit for a rapidity of

march almost supernatural, and in the other not allow for the common exertions and movements of the most sluggish foe?

Before I quit the Defence on this first Charge, I must add two or three observations on expressions and passages which appear rather extraordinary. The first I allude to is, where it is said, "from the moment the place was found impracticable, it was evident that nothing but some fortunate chance, or some derangement in the movements of the enemy's columns, or deviations from the direct line of the operations, could put us in possession of the place;" and so again afterwards a similar expression, "I then saw the chance of capturing Tarragona had vanished." Now, I only ask, Gentlemen, whether these are reasonable grounds of action, and whether, upon such a slender dependence, the battering train and stores should have been unnecessarily risked? It does appear to me, that such fortunate chances are not the legitimate grounds of action in a General; and that, if he does chuse to act upon the turn of the dice, he must take the chance and consequences of the throw. The next passage I allude to is, where an argument is used, which seems quite unaccountable, namely, that the persisting in the siege in the manner it was, and running the risks of the losses sustained in consequence, was all out of attention and consideration for Sir Edward Pellew, and to prevent his complaining of any ill effects which he might suffer in consequence of his having (at Sir John Murray's request) made a diversion in his favour at the Bay of Rosas. Now, really, how the loss of guns and stores at Tarragona could be any satisfaction to Sir Edward Pellew, for any injury he might possibly sustain at Rosas, I know not; but, at any rate, the risking a large portion of the battering train of the army, for the purpose of removing all chance of loss from a few marines and sailors, who might possibly be landed from the fleet in that quarter, and who, I have very little doubt, would take very good precautions to secure their way back to their ships, if necessary, was rather paying a compliment to Sir Edward Pellew at a dear rate, and at too great an expence of the character of the British nation.

The last observation I allude to on the first Charge, and the one which astonished me the most, as coming from a military man, and a British General in particular, was that in which it is said, "a few iron guns, and some stores, were all I risked," as if the mere Jewish value of the pounds of old iron, of which the guns were made, and the

actual amount of loss sustained in stores, was the only consideration, and the total change which was produced in the operation of abandoning the siege by the manner in which it was performed, and the wounds inflicted on the national honour, unless the measures were necessary, were in no degree to enter into the calculation.

I must next proceed to the consideration of the various arguments employed by Sir John Murray, in his Defence against the second Charge, as to which he has expressed himself to have been at the first perusal so shocked and astonished. The short summary is this, that the acts therein stated to have been disobedience of orders, and neglect of duty, were, in point of fact, in no way contrary to his instructions, and at least, therefore, they could not be "disobedience of orders;" as to the neglect of duty with which he is charged, no notice of that is taken at all. Conceiving that this point is established, he then comes to the next, that not being disobedience of orders, the policy and impolicy of the measures at the Coll de Ballaguer, after the siege was raised, cannot now be the subject of inquiry. From the whole of this I must beg leave most strongly to dissent, and I shall contend, and I think establish, first, that the not returning to Valencia, was against the whole plan and principles, and the plain import of the Duke of Wellington's memorandum; or, secondly, that, at least, the not doing so, and the re-landing of the army, a second time, at the Coll de Ballaguer, will require the strongest proofs of decided advantages to be derived from it, and the most powerful motives for so doing to be made manifest, before such conduct can, in any way, be considered as justifiable under the directions which were to be his guide; and that, therefore, in one point of view, the policy does come most materially in question.

To follow the line of argument contained in the Defence will be my object, and I shall shortly examine its leading features as they occur, and answer, or endeavour to answer, them all in succession.

The first thing which is relied upon, is the seventh paragraph, the same upon which I also principally rely, except, that I do not take it as a single order, but as a part of a whole, whose meaning is obvious. After reading this section it is simply said, that no precise time is specified for the return to Valencia; by which, I conclude, is meant, that it does not add, that Sir John Murray is, at all events, and under all circumstances, possible or impossible, to find his way as fast as he can to Valencia. To this I shall only

ask one question of any of the General Officers here present. If he were to receive the orders of the Prince Regent to sail on an expedition to attack any foreign settlement, pointed out to him in his instructions, would he not, without any express specification to that effect, consider himself bound to go, and to go direct to the place, and as soon as the elements, and other circumstances, would permit; or would he, because he understood that he was only desired generally to go, consider the time as quite immaterial, and that he might try any little experiment of his own in the vicinity, and be satisfied, that, provided he some time or other reached his destination, he had complied with his instructions? Such doctrine can surely never be supported; and yet this is the first argument employed in the Defence, and I must take them one by one as they are urged.

The next position I meet with is this: it is said in the Duke of Wellington's instructions, that the siege of Tarragona must be a question of time and means; and, therefore, (but according to what book of logic I cannot say) it is concluded that the return to Valencia, when the siege is raised, must also be a question of time and means—a question of means I admit, indeed, it must, from its nature, be, but how it is thus proved to be one of time I do not discover, excepting, perhaps, that the time must depend upon the means. In that way it is certainly a question of time, but that would not answer the purposes of the Defence.

It is next urged that the Duke, as appears from the memorandum, foresaw that it might turn out to be necessary to raise the siege, and not to embark the army notwithstanding, and that therefore he mentioned both these events; this, too, I fully admit, but did not Sir John Murray, in point of fact, find himself compelled both to raise the siege, and to embark the army? If this was not so, why did he abandon the guns and stores, for the purpose of re-embarking his army? and if it was, then, what was his next duty, according to the 7th paragraph, and the context and the meaning of the whole of the instructions, but to return to Valencia for the purpose there pointed out to him?

Pursuing, however, the same course of argument, it is next said, "I might have found it decidedly advantageous, under certain circumstances, to have staid and fought Marshal Suchet, (after I had determined to raise the siege) and not to re-embark the army immediately," and true it is he might so, and if he had so thought, and so determined, it appears to me he might have done so, that is, I only

mean, without acting contrary to his instructions, which were to return to Valencia when he had raised the siege, and re-embarked. But as, in point of fact, he did not consider such a battle as advantageous, or likely to be so (with which I have nothing to do, and upon which I can form no opinion;) but, on the contrary, took his resolution of abandoning his guns and stores, and hastily re-embarking, for the express purpose of avoiding the risk of a general engagement, then my plain conclusion is, that having resolved both to raise the siege, and to re-embark, and having actually done so, he was, according to the memorandum, to return to Valencia, and to return directly, or else the object, stated in the instructions to be accomplished by his return, would be defeated, and every intention of the expedition would be counteracted.

We come next to a supposed Case, that the memorable battle of Vittoria had happened a fortnight sooner, so as to have brought it within the period of Sir John Murray's operations on the eastern coast; and he here asks triumphantly, whether, in such a Case as this, he would not have been justified in remaining in Catalonia, to bar the only road by which Marshal Suchet could return, with his army, to his native country?

Now, Gentlemen, independent of the plain simple answer to this supposed Case, that the fact was otherwise, and that, as fortune did not put this golden opportunity in his way, the whole of it is beside the question, and has nothing to do with the real state of affairs which we have to consider. I must own I could not but smile when I listened to this sudden metamorphosis of this expeditionary army, and to the magnificent ideas and notions, all at once entertained of it, when compared with its situation at the period into which you are now enquiring.

This small Allied army, with scarcely 3500 British troops, and as to the rest composed of men of all the nations of Europe, unable to remain at Tarragona, and equally unable, from deficiency of equipments, to move away from it in any direction, but towards its transports—this army, which had just been fortunate enough to escape, with the loss of its guns and stores, from much the smaller half of the French armies on the eastern side of Spain, assumes, with pantomimic rapidity, a vigour, a strength, a power of motion, and every thing requisite to arrest the progress of the whole army of Marshal Suchet, when falling back (with all his garrisons, if requisite,) upon the army of Catalonia, and eagerly fighting its way for safety to its native soil. In fairness I must,

however, now add, that that is certainly put only as a possible Case, and that, as the Duke of Wellington foresaw, every thing that was not impossible, he must have foreseen the most extraordinary change of affairs on the eastern coast of Spain, though the only observation I have to make upon it is, that, if there could be any the least foundation for entertaining such imaginary prospects, and sanguine visions, I cannot now understand how it could have been necessary to re-embark from Tarragona, in the manner it has been in evidence stated that he did.

The substance of Sir John Murray's next statement is this, that the very uncertainty of the elements, independent of the enemy, bade defiance to orders so peremptory, as to the return to Valencia, as those which I have contended were disobeyed, and that it would be most unjust, thus to make him responsible for events beyond either his controul or that of humanity; and from this he proceeds to argue, that a certain latitude is given in the instructions, and that a return, after the siege is concluded, is not the only alternative, but that the re-embarkation of the army is, what we should term in law, another condition precedent to such return. Far be it from me, Gentlemen, to doubt, or to controvert, this position; I know the Duke of Wellington too well to suppose that he ever intended, or ever could intend, to express himself in such a manner in his instructions, as to make it necessary for Sir John Murray, in order to avoid disobedience, to be endowed with the attributes of divinity, or in other words, that he could ever have been so unreasonable as to have peremptorily ordered Sir John Murray to re-embark at all events, whatever may be the state of the elements, and whether the thing was possible or impossible, or that he could in his instructions positively order him to return to Valencia, if from the violence of the surf, he should be unable to get on board his transports. No, Gentlemen, I most freely admit that thus far certainly the return of Sir John Murray was left entirely to his own discretion, and if he has shewn to the satisfaction of this Court, that the elements and the enemy prevented the re-embarkation of the whole army at Tarragona, and compelled him to separate himself from his artillery and cavalry; if he has convinced you, that it was absolutely necessary to send that important part of his army almost, or as from some part of the evidence, would appear quite unprotected by any infantry across to the Coll de Ballaguer, at the very moment when he was raising the siege, and incurring the losses which were sustained, principally on account of

the appearance of Marsa al Suchet, in the mountains near Bandillos, close above the very road by which the artillery and cavalry must proceed, and how the march of a species of force so completely helpless against infantry, could be in such circumstances supposed to be secure, and at the same time, the spiking and abandoning the guns the night before, in the batteries, be justifiable, I cannot understand; but still, if the elements or the enemy did make such measures, and such risks necessary, in order to take the chance of the re-embarkation of this part of his army at the Coll de Ballaguer, as soon as the difficulties of the coast would permit; if such were the case, I am not only ready to admit that the place of re-embarkation was to this extent discretionary, but that Sir John Murray must, on this ground at least, be fully acquitted, as to that part of the second Charge, which blames him for not immediately re-embarking; but how is the fact; do we not from his letters, and even from his present Defence collect, that he voluntarily landed his infantry, or a greater part, a second time, for the express purpose of attacking the French? Was this, I must ask, the effect of the fury of the elements? Was it not, on the contrary, an act of choice, and not of necessity, and upon the justification of which, the acquittal as to this Charge must depend? Sir John Murray, however, goes on to add, that this return to Valencia is only just casually mentioned in his instructions, or to use his own language, that it is merely intimated as a measure, of which the Duke of Wellington foresaw the probability. This I must beg leave again, at all events, to deny, and I do most confidently contend, that the fair import of the whole, and of every part of the instructions, bear me out in this denial, and also in the construction and interpretation which I have put upon them.

In the exordium of the Defence it is stated, that one must suppose from the letter of Sir Benjamin Hallowell, that when the landing again at the Coll de Ballaguer was ordered, the whole army was already re-embarked, and that this was an entirely new and separate enterprize; such, he says, was the impression produced, and hence the origin of the second Charge; that His Majesty's Ministers were misled by this misrepresentation of Sir Benjamin Hallowell, and that this error gave birth to a Charge, which, under no other circumstances, would ever have been preferred. Here I must beg leave to interfere, and relieve the Admiral from one, at least, of the many matters which he is called upon

to answer, in the course of his reply, for I do assure the Court, that so far from his letter, and supposed misrepresentation being the sole cause of this Charge, that it most certainly never entered into my contemplation when it was drawn, nor do I believe that it ever weighed in the least with the noble personage from whom I received my instructions for that purpose. For myself, at least, I can answer positively; my only guides in framing the Charge, after the directions I received, were the various letters of Sir John Murray himself, which were read by me in the early stage of these proceedings, the contents of which, from what is above stated, appear, in the multiplicity of matter, to have slipped from the General's memory. They alone were to be, as I then from the first knew, my evidence, and my whole Case, and upon them, of course, I endeavoured to build my foundation, without having recourse to the letter of Sir Benjamin Hallowell for assistance, which, as to these two Charges, was any thing but proof. Sir John Murray surely cannot remember, that in those letters it is expressly stated, that though some infantry were, indeed, landed, merely to protect the re-embarkation of the guns and cavalry, yet that he afterwards landed the whole of the infantry, for the express purpose of making an attempt to cut off a French division at Bandillos, an attempt which I must again repeat, (not from any pretended information of my own,) but from the knowledge and arguments contained, and made use of in those letters, in justification of the raising of the siege, (and to which arguments and my comments thereupon, I must now beg again to refer,) I am enabled to pronounce to have been decidedly idle and hopeless.

In support of the construction of the Memorandum now contended for, Sir John Murray next refers to the fifteenth paragraph, and dwells, of course, much more upon the words there added, namely, "or at all events when he will return to the kingdom of Valencia;" contending, that from these words, he was possessed of full latitude as to his future conduct, when the siege was over, and the army re-embarked, and that he might return to Valencia, or not, as he judged it expedient. As to the landing as much to the North as possible in Valencia, in order to join immediately on the right of the Spaniards, that is construed to mean merely that he is to land to the North, for the purpose of being near the sea, and that whenever he should ultimately deter-

mine to return to Valencia, he was to take his position immediately on the right, or close on the right of the Spaniards.

Now I do put it to this Court, whether in fairness the construction for which I am contending, is not the plain, natural, and reasonable interpretation of the paragraph, whether taken singly, or as a part of the whole Memorandum, and whether that contended for by Sir John Murray, is not a forced and unnatural one, the effect of consideration and afterthought? First, I must rely upon my former address, as to the general views of the Duke of Wellington, which appear to be obvious, and to require my construction; but even independent of that, the very wording of this section, coupled with that of the 7th, seems amply sufficient.

The word immediately in my sense, and applied to time, is most important, and means that the junction is to take place immediately. In the sense in which Sir John Murray is obliged to use it, the word is absolutely superfluous, and simply to join the right of the Spaniards, would have had the same import, if the word immediately had been altogether omitted.

The landing, however, to the North, and the object specified for which he was to return, most strongly strengthen my construction, and to me would be sufficient, even allowing, (as Sir John Murray contends,) that the order to join immediately on the Spanish right, was intended only to express that he was to join some time or other, close upon their right; at least, I can assure him of this, that he is again most completely in an error, when he states, that my supposed mistaken construction and misunderstanding of the effect of this word "immediately," was the sole cause of this second Charge appearing before the Court.

But, however the Charge may have originated, the question before this Court must certainly now depend upon the light in which the Members view these orders; and if upon consideration they shall be of opinion, that Sir John Murray might, taking the whole together, fairly construe them in the way he does now, and that he acted in consequence of this construction, notwithstanding the real intentions of the noble Duke who forwarded this memorandum, may have been different, I am certainly the last person who either from my own inclination, or from the instructions I have received, would wish to deprive him of the benefit of

this double meaning, if such it shall by this Court be considered.

I will next suppose, therefore, that in truth, a certain latitude beyond the mere delay of the elements was intended in certain cases; I may still, at least, take it as I think indisputable, that from the general sense of the whole memorandum, a return to Valencia was certainly to take place as soon as the siege was raised, and the army re-embarked, unless there shall appear to have been some sufficient reasons and good cause for the contrary. That is, I now suppose, that the instructions did give a discretion to suspend the return to Valencia, provided that the discretion was properly exercised.

This brings us to the next question whether in this particular Case, there was any good cause for the suspension of the execution of the general plan marked out in the memorandum; and this brings us to the policy of the relanding at the Coll de Ballaguer. In support of this part of his proceedings, Sir John Murray quotes and relies upon another section of the memorandum the 22d, and might, therefore, contend that having forced Marshal Suchet to cross the Ebro by the success of his former measures, it was then left to his discretion, in express terms, whether to pursue his successes in Valencia or in Catalonia. Here again, in my view of these instructions, and of the Case, Sir John Murray appears to have taken as rapid strides, and to have magnified as much the amount of what he had accomplished, as he before did the visionary prospects of what he would have done, had the battle of Vittoria taken place 14 days sooner.

Upon reading this section, and looking to its position in the memorandum, the Court must observe, that it is most evidently inserted upon a supposition, that in consequence of one of the measures previously pointed out, Marshal Suchet should have been compelled to abandon Valencia, and fall back behind the Ebro, leaving only his garrisons in the fortified holds in Valencia; and that, in the state of affairs, Sir John Murray would naturally have had an option, either to lay siege to the fortresses in Valencia, or to those in Catalonia, unless he had previously received instructions applicable to such a Case. It was to this possible state of affairs, that the 22d section was evidently intended to apply, and with the exception of a hint, in the following section, as to the leading principle, upon which his decision in such a case was to depend; namely, the possibility of communicating with the Sea, and thus carrying on the

campaign in Catalonia, without previously depriving the French of their strong holds on the Coast in Valencia. In these supposed circumstances, and with this limit as a guide, a discretion as to his conduct is certainly expressly given to Sir John Murray, and the only inference I can fairly draw from this, is, that by being thus specifically granted, and directly expressed under these circumstances, it is to be implied at least, that he had it not in any other. Now again then let me ask you, Gentlemen, was Sir John Murray, at this moment, in that supposed and imaginary state of exulting success and prosperity to which this paragraph alludes? General Murray states, Marshal Suchet was now behind the Ebro; and so he was indeed, and with a part of his army also: but, how does it appear that he was forced there by the success attending the execution of the Duke's plan; was Valencia forced from the enemy? was Sir John Murray in that happy condition to have the option of whether he should first proceed in his career of success, by taking Murviedro, or Peniscola, or Denia, or any other fortified hold, left abandoned to its fate, on the South side of the Ebro in Valencia; or, whether he should at once, commence his campaign in Catalonia, by an attack on Toulouse, or any other fortified place, north of the Ebro, in that last mentioned province?

The contrast of the real state of affairs is, alas, but too striking; Marshal Suchet was, with one part of his army, in a great measure at least, maintaining his position throughout the whole almost of Valencia, and with another part, was certainly on the north side of the Ebro; but so far from being a retreating army, forced across the Ebro, unable to keep the field, and leaving the country open to the operations of Sir John Murray, it was this very part of his army which had voluntarily crossed the Ebro, in search of Sir John Murray, which had but just compelled him to abandon the siege of Tarragona in the manner he had done. And Sir John Murray, instead of being in a condition to select his place of attack, and mode of campaigning, was scarcely delivered from the danger this voluntary appearance of Marshal Suchet, across the Ebro, had created—he had scarcely, indeed, had time to ascertain the amount of the losses he had sustained in consequence; and was even yet trembling for the safety of a considerable part of his artillery and cavalry still remaining on shore. I think, I need add no more, to convince the Court that this was not the precise period, at which there was any good ground

for looking at the 22d Section of the Memorandum, for instructions.

To return, then, to the policy of this measure; and here, Sir, I must admit, that I have neither facts nor arguments to adduce, to prove the impropriety and impolicy of this measure, beyond those which have been furnished me, by Sir J. Murray's letters, which I have already had the honour to read, and to comment upon; by them before this Trial was commenced, I was satisfied; and though, in the present Defence, every thing that would furnish me with the arguments, has been carefully avoided, the principles, the facts, the reasoning, the deductions, contained in those letters, all remain the same as before; they are still all in evidence before this Court, and the Members, I am satisfied, have only to refer to them, to be convinced of their justice and truth. I own, for myself, I never shall understand how it could be justifiable to run all the risk of being compelled to fight a general battle, and of having a second re-embarkation in the presence of a superior enemy, in good earnest, when the inducement of saving the guns and stores, and maintaining the character and credit of the country, which had all operated in vain, but three days before, existed no longer; and when (if ever the 13th Paragraph of the instructions was to be considered as applicable to Sir John Murray's army) this was the time. The only professed object for this conduct, namely, the chance, as it is called, of cutting off a division of French at Bandillos, had been proved by Sir J. Murray, in his letters, to have been absolutely impossible. It was a mere will of the wisp, to lead him on to destruction; and such, it does appear would, probably, have been the inevitable result, had not the French, for what reason (as he says) he cannot imagine, by good luck, retired in both directions, and left him to embark his army in peace. A new ground and reason for this conduct, however, having been now, for the first time, stated, it becomes me, shortly to observe upon that also. It is now said, that the report of the falling back of General De Caen's force, a few miles from Villa Franca, having left only Suchet opposed to the Allied army, that, on this account, the new attempt had become justifiable; and, indeed, Sir John Murray proceeds to state, that from this circumstance, he had even looked forwards to the possibility of being able to renew the siege of Tarragona, except that, most unfortunately, General De Caen, having ascertained that the English Commander

was not yet quite gone, suddenly returned, and appeared again at Cambrills. And what, I must ask, could be more naturally expected? Was it really, for one moment, to be seriously imagined, that after having collected a considerable force, at great expence, from great distances, and at great inconvenience, for the express purpose of opposing this expeditionary army---the French, just at the moment when they were assembled, and perceived they had some hopes of attacking the Allies to advantage, would go quietly back, and leave them to follow up their own designs unmolested?

This, I think, no reasonable being could expect, and, in truth, I must say, that the same conduct appears in the resolution to embark on the 9th, as in the actual embarkation on the 12th, and in almost every other instance that we have been considering; namely, that Sir John Murray was too apt always to decide exactly as the last hour's intelligence might make advisable---trusting to what accident might produce, without keeping any general consistent line of action in his view, or reasoning upon what was likely to be, and must almost necessarily be, the ultimate result of any given course of operations. There is now only one other point, upon the wording of the second Charge, upon which, from the manner Sir John Murray has repeatedly and triumphantly dwelt upon it, as if that alone must ensure a complete acquittal, I feel it necessary, also, to make some observations. Had it not been for those strong and very confident remarks in the Defence, I really should not have deemed myself justified in addressing any arguments, upon a subject so clear, to a tribunal composed of Members of such information and experience in every branch of military law and practice. But as Sir John Murray seems to have conceived he had, on these grounds, a hope, that if he could only disprove one word of the Charge, he should disprove the whole, and be acquitted altogether, I feel myself bound to endeavour, to set this matter right; I allude to the word "express," the express written orders; Sir John Murray seems fallaciously to suppose, that having once established the fact, which I, by no means, however, admit, that he has proved to the Court, that his not returning to Valencia, was not against the express written orders of the Duke of Wellington, or in other words, that he has demonstrated, that there was no express order for his return, at all events; that in such a case, he is, as a matter of course, to be immediately acquitted upon the whole Charge, even though

the Court should be of opinion, that what he did was against the general and obvious meaning of the instructions. I need scarcely, however, point out to the Court, that neither the notion of civil or military law, will bear him out in this supposition, should the Court really feel, in the manner I have stated in this Charge, namely, that it was generally contrary to the plain, obvious meaning of the instructions, even though they should be of opinion, that there was no express, precise order, to that effect; it would then, I humbly submit, be their bounden duty to find Sir John Murray guilty of all the Charge, except the word express, and acquitting him of that, to consider his Case accordingly, so if they should even be of opinion, that there was no disobedience of orders at all in the Case, but that it was in their view, nevertheless, a neglect of duty in him, not to have returned to Valencia; then, I say, also, he must be found guilty only of that part of the Charge accordingly, which states a neglect of duty. I need scarcely illustrate this, by the point of military law, which is familiar, and is laid down in the books of military law; and is, I believe, always acted upon, namely, that when a prisoner is charged with a larger crime, such, for instance, as desertion to the enemy, and the Court think his Case does not amount to that crime, but only to desertion simply, or even only to absence without leave, he is found guilty of that part accordingly, as being included in the crime with which he was charged, and much more is the practice settled, that when a prisoner is accused by a Charge containing several branches, he may be found guilty of any part which amounts to an offence in itself; and is included in the Charge, and acquitted of the remainder. And so the law is in the common courts of judicature, and, by way of illustration, I will put a familiar instance, hoping that it will not be supposed that I intend any offence by the allusion; I give it merely as explanatory of this doctrine—a man is indicted for stealing forty shillings in a dwelling-house, the punishment for which, is death, the jury think either that the value is under forty shillings, or not in the dwelling-house, and the man is thus acquitted of that part, and found guilty of the remainder, the stealing only; this offence being included in the former, and so in numerous other Cases, I hope the Court will pardon these observations, and be assured, that I should not have made them, had I not perceived that Sir John Murray appeared to make so marked a distinction between disobedience of written orders generally, and dis-

obedience of express written orders, and had I not been fearful this fallacious argument might mislead. Of course, if the Court shall understand, that the return of Sir John Murray was, as he states, merely intimidated by the Duke of Wellington, as a matter which it just occurred to him to mention as probable, without intending to express any orders on the subject; if that, I say, is the light in which this memorandum shall be seen, the whole of these distinctions are at an end, and a general acquittal must be the consequence. I need scarcely add, that this same doctrine and reasoning applies also to the first Charge, as to the believe of Sir John Murray of the information received, that has also, as I have said, been much relied upon, as if unless I could prove that belief, it was useless to prove the rest of the Charge, as Sir John Murray must then be acquitted of the whole; this, upon the above principles, I also deny, and maintain that if the rest of the Charge be substantiated, of that rest, Sir John Murray must be found guilty.

Although, in the present Defence, the 13th paragraph is only relied upon against the 3d Charge, and it may, therefore, be considered, that observations from me on that subject are unnecessary, yet, as my former construction and interpretation has been most strongly denied, I feel it necessary to say a few words in its support.

In addition to the former reasons, which I stated as being the cause of the insertion of this paragraph, I have now another to add, independent of the general inclination which I mentioned before of the Spanish General's, to risk a general action imprudently, when left to themselves; there was, on this occasion, during the absence of Sir John Murray, a particular temptation to them to do so. They had always flattered themselves with the idea, that all their former defeats had been owing to their not being possessed of a body of really good efficient cavalry. This was the first occasion on which they were likely to be entrusted with such a body of cavalry (though small), namely, all that part belonging to the army of Sir John Murray, which he could not embark, and that belonging to General Whittingham's corps; I have reason, therefore, to believe, that it was particularly on this account the Duke of Wellington was fearful that the Duque del Parque and General Elio, being now for the first time left in the temporary command of this cavalry, would be unable to resist the temptation of trying an experiment to ascertain the

correctness of their former idea, and that they would, in consequence, risk a general action, which it was the whole object of his instructions throughout, that the Spanish troops should avoid. On this account, I believe it was, that he inserted this caution, which was certainly intended, however it may be expressed or construed, to be applicable to the Spanish Generals only, the Court recollecting that this memorandum was equally addressed as Commander-in-Chief of the Spanish armies, to the Duque del Parque and General Elio, as well as to General Murray, and not to the latter alone. Whatever may have been the real intention, however, of the Duke, unless he has expressed them, Sir John Murray, I admit, is not to be bound by them. He has a perfect right to contend for what appears to be the real sense of the memorandum of instructions, as it stands both on this and every other doubtful passage. I am willing to meet him on this principle; for the Court will observe, that the 11th and 12th paragraphs, the two preceding ones, both relate to the Duque del Parque and General Elio, by name, and the Spanish armies which were to remain in Valencia; and the 13th paragraph, then pursuing the same subject, begins thus, "it must be understood by the general officers at the head of these troops, &c. &c." Now, if this does not in the clearest language evidently shew to whom the caution contained in the following words was intended to apply, and that the true and only meaning was, that it applied to the Generals at the head of the Spanish troops, I certainly shall only waste the time of the Court by any attempt to make it clearer.

Though this observation, as I have already said, is more particularly applicable to the 3d Charge, yet, as it was my construction given before, which was disputed, and as Sir Benjamin Hallowell might not have the same means exactly of answering the objections to that construction, I conceived the Court would think me justified in pointing it out; in every other point, I shall, with respect to the 3d Charge, abstain from all comments, I will carefully avoid giving Sir John Murray on this ground, any just cause of complaint, arising from the unusual situation in which he is placed, by having two prosecutions carrying on against him at the same time.

At present, I do hope, and with some confidence, after the expressions which he has so handsomely made use of, in his Defence, that the peculiarity of his situation generally, and not my conduct on the occasion, is the whole of which

he has cause to complain. And even as to this, I must observe, Gentlemen, that if he had had the choice of two separate trials on the different grounds which are now included in one, which would have been the other alternative, I very much doubt whether he would not have gladly preferred the present course, and have had much better grounds of complaint if the other had been pursued.

However that may be, I do admit, that were I now to take advantage of my present situation, and make, as it were, a duplicate reply on the last Charge, in addition to that which you will hear from Sir Benjamin Hallowell, Sir John Murray would, indeed, with good reason, complain. From this, as justice demands, I shall abstain, and, at least upon this part of the Case, I hope I may be able to act in a manner deserving of those encomiums to which I have before alluded.

My duties as Prosecutor, are now finally closed, and the task, therefore, of a situation, always from its nature very embarrassing, is now much lighter; all that now remains, is to continue, as I hitherto endeavoured to be, to the best of my abilities, the fair and impartial adviser of the Court.

In your hands, Gentlemen, I now leave the Case on the two first Charges, and in concluding, I have only to add, that I am enabled now, after the experience of the uniform attention and ability exhibited throughout the trial, with much more confidence, to repeat that prediction, which, from your well known character, I was early in the Case induced to make, namely, that with the ultimate decision on all these Charges, every thinking man, competent to form an opinion, and willing to examine into the true state of the Case, will remain perfectly satisfied.

Adjourned to Monday morning, ten o'clock.

FIFTEENTH DAY.

Monday, 6th February, 1815.

The Court met pursuant to adjournment

Judge Advocate. Admiral Hallowell. Before you proceed, I would ask, whether you wish the paper containing the requisition of what was desired to be embarked, should stand upon the minutes?

Rear Admiral Sir B. Hallowell. I only put it in for the information of the Court.

Judge Advocate. It has been proved; but it has never been read. It seems to me the Court have upon their minutes much better evidence; but if you wish it to be read, and put in the Appendix, it shall be?

Rear Admiral Sir B. Hallowell. No; I think it is not necessary.

Lieut.-Gen. Sir John Murray. Mr. President. Before the Court proceeds to hear Sir Benjamin Hallowell's reply, I beg your attention for a few moments to a point by no means irrelevant to the subject of enquiry?

It cannot have escaped your attention, Sir, that notwithstanding the request of the Court, the proceedings of this Trial have been daily given to the public, and I lament to say, on several occasions, with an inaccuracy, which could tend only to mislead. I have forbore to complain; and, perhaps, it would have been more advisable, had I drawn the attention of the Court to the subject at an earlier period. Within these few days, however, Sir, a mis-statement has appeared in some of the public prints, which I cannot overlook; and feel myself now obliged to apply to the Court for redress. I allude, Sir, to the report of the extract of the Duke of Wellington's letter of the 23d of May, in evidence before the Court, in which His Grace is represented as giving an opinion in direct and express opposition to that which he in fact does give. I now hold in my hand the original of that letter, and I beg the permission of the Court to read it. I beg the further permission to read the passage of which I complain. It is not for me to suggest what steps this Honourable Court may further deem it advisable to take upon this occasion; for myself I ask nothing, further than that the mis-statement may be as publicly contradicted, as it has been

publicly sent forth to the world. After speaking of the various troops, His Grace says, "I acknowledge, that I have "always found the French in the field fully equal to the "highest calculation of their numbers, and greatly exceed- "ing the general report; but I think, not only that this cal- "culation is over the mark, but that with weaker numbers "they will be more than a match for you." The paragraph of which I complain is this "He acknowledges," (that is His Grace,) that he has always found the French in the "field more in numbers than what they were reported to "be, but thought that General Murray with his numbers "would be fully a match for them.

Judge Advocate. Was there the same misrepresentation in the other papers.

Lieut.-Gen. Sir John Murray. That is the only paper I have seen; that is the Morning Chronicle.

Sir John Murray delivered in the paper.

Judge Advocate. I believe the Court will be of opinion the matter must rest here, and perhaps it will answer the purpose of Sir John Murray, to have pointed out the mistake, as it is the bounden duty of those who have made the mistake to rectify it, in at least as public a manner as they have made it.

President. Certainly,

Rear Admiral Sir Benjamin Hallowell.

Mr. President and Gentlemen of the Court.

The examination of the Witnesses on both sides having now closed, I shall beg your permission to offer a few observations on the evidence which is before you, and to reply to the address of Sir John Murray, which has been read to the Court in opening his Defence; that address, Sir, is full of declamation, without offering one substantial reason for raising the Siege of Tarragona in the manner he did.

To follow him throughout all his voluminous statements is impossible; I will therefore select only such of them as have been offered with an intention of attaching severe criminality to my conduct,

Sir John sets out, by stating that private animosity had induced me to write the letter which is before the Court, and that it is owing to the manner in which I transmitted that letter, and its publicity, that he owes not only all the illiberal abuse poured out upon him, and his suspension from all military command; but also, it is owing to this letter, that he is now placed in his present situation before this Court.

In reply to this observation, I beg to state that I had received written instructions from my Commander-in-Chief, to transmit to the Admiralty an account of my Proceedings, whenever I had an opportunity of doing it more expeditiously than by sending the information to him in the first instance; taking care to forward the original letters to him by the first opportunity afterwards; but on no account to send a man of war out of the limits of the station, if it could be possibly avoided. In obedience to this order, I have been in the habit of sending to the Admiralty duplicates of my letters to Sir Edward Pellew, when on detached service, and the receipt of those letters, has been acknowledged by their Secretary.

This letter was sent in the same manner; I sent it in the usual way that every dispatch of importance is forwarded. I sent it by an officer who was capable of giving every explanation their Lordships might require on the subject. That letter, Sir, was never sent by me to the Duke of Wellington; his Grace could have no knowledge of that letter until he received a copy of it from Lord Bathurst.

Its publicity, of which Sir John Murray complains, (if it did exist) did not originate with me, and I do not believe it has ever appeared in any public paper; therefore it cannot be by the publicity of this letter that he has suffered any inconvenience, but more likely by the publicity of his conduct, which caused the necessity of my writing it. Sir John Murray wishes to establish an impression, that I sent this letter away in great secrecy, and that I had determined on sending it as early as the 12th. That I did determine to send a letter to my Commander in Chief, as soon as I could, after the embarkation of the troops, is natural enough; I should have neglected my duty if I had not done so. By Captain Carroll, I also wrote a letter to the Duke of Wellington.

On my arrival at Ballaguer, on the afternoon of the 13th of June, I found Sir John Murray on shore. In the evening he went on board the Malta, and I soon followed him. I asked him if he meant to write to the Duke of Wellington—his answer appeared to me doubtful. I replied, I should write if he did not, and I wrote a letter that evening, stating to his Grace, the precipitate manner in which we had retreated from Tarragona, but without stating the offer I had made to take off the guns. On the morning of the 14th, I spoke to Sir John Murray again about writing, as I

thought our operations were so combined with the Duke of Wellington's movements, that every moment's delay was of importance. This was my reason for writing to his Grace. How far it was sent away in secrecy the Court will be able to judge, but I do not think much secrecy could be attached to an event, which was published by general signal to the fleet. Captain Carroll was superseded in the command of his ship to go with it. Sir John Murray was informed of his intended journey, and he was the bearer of Sir John Murray's dispatch to the Duke of Wellington.

The Charge, of having sent the Hyacinth away in a hurry, has been clearly disproved by the evidence already before the Court; the measures taken upon my letter were unknown to me, until I received notice thereof from the Admiralty: and my being placed in the situation of a Prosecutor was unknown to me, until after Christmas last, the letter of the Secretary of State leading me to suppose that I was only to be examined as a witness. Sir John Murray has charged me again with illiberal conduct, in writing this letter to Sir Edward Pellew, after my having perused his dispatch to the Duke of Wellington, and that I did not give him notice of my having written this letter, until 27 days after it was dispatched, when I knew that long before it must have reached its destination, and produced effect on the character of the man for whom I was then professing a personal regard. As he (Sir John Murray) has stated, that I saw the letter, I will not flatly deny his assertion, but I do most solemnly declare, that I have not the slightest recollection of such a circumstance having taken place.

Colonel D'Aguilar, who is now before the Court, was some months ago at Tarragona, collecting documents for this trial; he then asked me if I had seen the letter of Sir John Murray before it was sent away? I told him I had not. He expressed his astonishment, and said he understood the letter had been shewn to me before it was sent away. I again denied my having seen it, and told him, that if I had perused it, my opinion of Sir John Murray would not have been altered by it.

The anxiety which many of the Officers of the Malta have witnessed on my part, to see the letter alluded to, and the astonishment I expressed on reading the first line in it, which states, "Admiral Hallowell has just informed me, that the Hyacinth is going to Alicant," will strengthen the belief that I had no knowledge of its contents, until it appeared in the public paper. His letter, detailing the pro-

ceedings before Ballaguer, under Captain Adam and Lieut. Colonel Prevost, I saw; and probably Sir John Murray may have mistaken this letter for the other; with the permission of the Court I will here read it.

H. M. Ship Malta, June 14, 1813.

SIR,

After the fall of Fort St. Philippe, some days elapsed before I got the official report of the siege, and the pressure of the business in which we have both been engaged since, has prevented me from sooner expressing to you the high sense of obligation I feel, for the very ample and important assistance the army received on that occasion, from the naval force sent there by your orders. The whole army is sensible of their obligations to you on this, and, indeed, on every other occasion, and no person in it, I assure you, more than myself.

As the proper channel of communication, I hope you will excuse my requesting of you, to communicate to Capt. Adam, and the officers and seamen under his immediate command, how much I feel indebted for their meritorious services on that occasion. Captain Adam's exertions were unwearied, and the arrangement he made, and saw executed, most materially contributed to the success of the undertaking.

Captain Carroll, of the Volcano, took a most active part during the siege, and to him was entrusted the placing the guns on the breaching battery, within two hundred and fifty yards of the place which he had, by his activity and gallantry, nearly effected, when he was disabled from further exertions by the explosion of a shell. Captain Stoddart succeeded him, and most ably finished what Captain Carroll had left undone.

The services of Lieut. Corbyne, of the Invincible, have been particularly noticed by Lieut. Colonel Prevost, and, in the management of a battery entrusted to his charge, he was particularly distinguished. I shall esteem it a favour, if you will draw the attention of the Commander in Chief, in the Mediterranean, to his services on this occasion.

I have the honour to be,

Sir,

Your most obedient humble Servant;
J. MURRAY.

Admiral Hallowell, &c. &c.

The public letter to the Duke of Wellington, detailing these proceedings, must have been the one shewn to me, if any one was shewn.

Unwilling as I am to make any thing like what concerns myself the subject of this reply, yet the very peculiar situation in which I stand, compels me, in justice to myself, to trespass a few minutes upon the time of the Court. It was not till I arrived in London, a few days after Christmas day, that I knew I was to be Prosecutor, and not till the day before I left London to proceed to this place, which was the day on which the Judge Advocate left London, that I first heard that, in contradiction to the orders from the Secretary of State, I should substantiate the statements made in my letter to Sir Edward Pellew, that I found myself confined, by the terms of the 3d Charge, to the transactions up to the 12th instant inclusive, and that I was not to go into the full detail of my letter. This, with the very different mode of carrying on Naval Courts Martial, will, I trust, account satisfactorily to this Court, for some of the apparent irregularity of the examination of the witnesses, being the first Military Court Martial at which I was ever present, and has deprived me of the evidence I wished to produce.

If abuse were proof, if invective were evidence, I should stand a bad chance; but Sir John Murray forgot to whom he addressed himself; he forgot that the judgment of this Court, would lead them to conclude, that when a man substitutes abuse for defence, it is because he has no better evidence to produce; and when a man evades to answer the Charge made by a discussion, very irrelevant to the subject, it is because he dare not meet the Charge. It is no wonder, that brooding over discontent and disappointment for so many months, such a malignant production should have been brought forth. This is a harsh term, but not too much so, by any means, for those calumniating Charges, made in his address, many of which were too bad for him to support, even by a shadow of evidence, and some of which, to avoid discussion, he would have abandoned. The admission of the infirmity of some of those Charges he has as readily allowed, as they were deliberately and unjustly made. Surely he had little respect to the Members of this Court, so well-informed in their profession, to suppose they would be deceived by high flown, I had almost said, bombastic language, or that their judgment will be blinded by flattery.

My reply shall be short, and facts, not metaphor, shall be laid before the Court. Having stated most solemnly, to the Court, that I had no personal ill-will to Sir John Murray; after my assurance to the Court that, to the best

of my recollection, not even an angry word passed between us ; is he warranted in his address to the Court ? Words were used in this address, which his habits, and the circle in which he must have moved, ought to have prevented the use of.

With respect to my keeping back his letter of the 2d of June, it stands upon the minutes of the Court Martial, that Sir John Murray did not deliver it to me until the 3d ; that I had no vessel by which I could send it away immediately ; and it is proved by Sir John Murray's letters to me, which are before the Court, that he knew it was sent on the 4th, with the other letter dated on that day, and he has confirmed his knowledge of it, by a verbal confession of it before the Court.

Whether it was Sir John Murray's intention, in making this statement, to impress on the minds of those who heard him, that I had designedly kept back that letter, I will not pretend to say, but that it had that effect no person will doubt.

I next come to the Charge exhibited against me, respecting the Bristol being ordered to anchor at a considerable distance from the landing place, at the Coll de Ballaguer, with no other view than to prevent the Quarter-Master-General from repairing to head quarters ; and Sir John Murray continues—"well might the Admiral predict misfortune, if he proposed, by this exertion of his authority, to deprive the army of the service of one of the most active and intelligent of its officers, and to cripple the most important of the Departments, by the absence of its chief." On the afternoon of the 12th June, about 3 o'clock, the troops began to march down to the beach for embarkation. A little after sun-set, Sir John Murray went on board the Malta. I remained on shore till between two and three o'clock in the morning of the 13th, when I returned to the Malta, and went to bed. It having been reported, that the enemy had discovered a pass round Ballaguer, I had previously ordered the Volcano to go there, to assist in covering our troops, which had been sent thither the preceding evening for embarkation. On my rising about six o'clock, I found the following note on my table, written by Sir John Murray.

"MY DEAR SIR,

"I will beg Captain Carroll to make the signal to any infantry embarked at Salou Bay, to come down with us.
"Before you sail, perhaps it would be possible to put the

“troops in some order, that is, to get the regiments a little together, that they may be enabled to disembark. My orders are to disembark as far to the northward as possible.

“Your’s truly,

“J. MURRAY.”

After all the staff horses, mules, &c. were embarked at Tarragona, I proceeded in the Malta, to Ballaguer, leaving all the transports in charge of Captain Bathurst, of the Fame, to be ready to weigh with them, when I should send him orders for that purpose. The Bristol had been sent round to Salou Bay, on the afternoon of the 12th, for the purpose of embarking part of the troops, and remained there in charge of the transports at that anchorage. After I had passed the Bay of Salou, I observed the Bristol getting under weigh, and made her signal to remain at anchor; and while I was at dinner, it was observed to me, that she had got under weigh, notwithstanding the signal I had made to her, and I immediately directed her, by telegraph, to return to Salou.

From the letter which Sir John Murray had left on my table in the morning, it will appear evident to the Court, that it was his intention when he left the Malta, to embark the troops which were at Ballaguer immediately, and that they were to be landed again as far to the northward as possible. It was, therefore, with a view of keeping all the ships in a state of readiness to move together as soon as we should have completed our embarkation at Ballaguer, that I ordered the Bristol to return, and not from any desire to keep General Donkin from repairing to head quarters; the ships went there solely for the purpose of embarking the troops, and General Donkin has declared before the Court, that he never attended the embarkation or disembarkation of troops except at Tarragona. What injury then could the service suffer by the absence of that officer? I can only say that I received no assistance from him at the embarkation at Tarragona, for I never saw him after sun-set.

Had General Donkin been disposed to visit Sir John Murray, he had the means of doing it by boats, in the same manner other officers did; and I found no difficulty in keeping up my communication with the Fame through the same channel, although she was lying in Tarragona Bay at a considerably greater distance than the Bristol. Sir John Murray’s head-quarters were at this time on board the Malta, and the Bristol joined the next day, when Sir John Murray directed the troops to assemble at Ballaguer. But, Sir,

the impression intended to be made against me is of a nature to affect my character, even my life, where it possible that I could be guilty of the crime alleged to me. It charges me with suffering my private resentment, (if I had any) against an individual, to affect my conduct in the execution of my duty to my country. It is not an insinuation, it is a direct charge, but I trust that this explanation will fully do away such an idea from the minds of those members of the Court with whom I have not the honour of being acquainted, and I am sure, that every person who knows me, will have no hesitation in declaring that I am incapable of such conduct: the following letter from Sir John Murray, and my answer, will support me in this last assertion.

Extract from a Letter, dated Castalla, May 19th, 1813, and addressed by Sir John Murray to Rear Admiral Hallowell.

"There is a point, on which I must say a few words. It is respecting General Donkin's embarkation. His going with me is totally out of the question, but it is extremely desirable that he should be in a Man of War; a Transport is subject to be separated, and the Quarter-Master-General is a power so necessary in landing, that we should be put to a very great inconvenience were he absent; I am, therefore, anxious, that you will be kind enough to allot some Man of War for him. It is for the Quarter-Master-General, and not for General Donkin, that I make this request; the same holds good for Major Kenah, but not in so strong a degree.

"J. MURRAY."

Extract of a Letter from Rear Admiral Hallowell to Sir J. Murray, dated 8 P. M. 19th May, 1813.

"I saw Major Laing yesterday, and told him, General Donkin might have either the Bristol, (which is intended for a General Officer) or the Polly Horse-ship, or any other ship he chose to name. I thought the second in command had a prior claim to the Fame, and had, therefore, arranged for General Clinton to go in her. I shall be very happy to do any thing in my power to accommodate General Donkin, and shall be obliged to you, or him, if you will point out any way in which I can contribute to his comfort, in the expedition that is now in contemplation.

(Signed)

"B. HALLOWELL.

"P. S.—General Donkin may go in the Thomas, if he prefers it."

Extract of a Letter, dated half past twelve, P. M. May 20th, 1813, from Castalla, and addressed by Sir John Murray to Rear-Admiral Hallowell.

"I am extremely obliged to you for your accommodation with respect to General Donkin. On that subject, I will write likewise, to-morrow. The post is just going out, and I have a good deal to go.

(Signed)

"J. MURRAY."

Extract of another Letter, dated Castalla, May 21st, 1813, from Sir John Murray to Rear Admiral Hallowell.

"MY DEAR SIR,

"General Donkin, to whom I communicated such parts of your letter of the 19th as concerned him, is much obliged to you, and accepts of your offer of the Bristol.

(Signed)

"J. MURRAY."

Here, Sir, you will see the line of conduct I pursued on our embarkation at Alicant, previous to our sailing to Tarragona, and I solemnly assure the Court, that from the time of our embarkation at the former place, until the period stated in Sir John Murray's Charge, I do not recollect having had one single word of private altercation with General Donkin.

As to the Charge of writing to Lord Bathurst on the 14th, I will only say, I wrote no such letter, notwithstanding the comments on my doing so.

Sir John Murray charges me with making the following signal,—“We are delighted;” I do not deny it.—The America informed me by signal on the 17th, that Lord William Bentinck was on board,—I answered,—“We are all delighted.”—In making this reply, I spoke the sentiments of the whole army, and I really believe, of Sir John Murray also.

That Sir John Murray should not be prepared for such a letter as I have written, is impossible; my address to him on the morning of the 12th, at ten o'clock, and to which Sir John Murray made no reply, fully discloses to him my sentiments of the proceeding. I told him that the object of my visit, was to inform him of the disgraceful manner in which they were going on upon the beach; that General Donkin had given directions in his name to spike the guns and destroy the batteries; that we were bringing disgrace on the British character by such conduct, and I intreated him, if he was determined to raise the siege, to do it

in a soldier-like manner, and not in the disgraceful manner in which we were then doing it.—I concluded by saying, if you will allow the guns to remain till night, I pledge myself to take every thing off.—Sir John Murray says, that in a paragraph of my letter, I told His Majesty's Government, and the Duke of Wellington, that I had promised to embark the whole of the guns, if he would remain till night; of my advice and opinion he says he knew, but of such offers he has no recollection. I refer to Sir John Murray's dispatch to recal it to his memory, and I do myself speak positively to having pledged myself to execute the order. I did not make that pledge without having given it due consideration before I made it, I knew the extent of the operation, and the means I possessed to execute it. I never made a promise to the army to perform any service without fulfilling it, and there is no reason to suppose I should have failed in this instance.

After such a declaration, and Sir John Murray having persisted in raising the siege of Tarragona in the manner he did, could he imagine that I would be silent? Certainly not. His answer to me when I communicated to him, that I had written as strongly to Sir Edward Pellew as I had ever spoken, convinced me that he was prepared for it. He replied, "I am aware of it, I had every reason to expect it, from the manner in which you have always spoken. I have made my report to Lord Wellington, and I feel myself accountable to no one else."

With respect to the personal regard which Sir John Murray says I was professing for him, I cannot recollect having any communication with him, after his leaving Ballaquer, that was not official. On my arrival at Alicant, I waited on Lord William Bentinck, as the Commander of the Forces, to pay my visit of respect to him. My next visit was to Sir John Murray, who had just resigned the command, when he refused to see me, and I never called upon him again, until the day we marched from Alicant for Valencia, when I waited on him, to inform him, that I had allotted a ship for his accommodation, whenever he wished to move. I have never failed to pay immediate attention to every request Sir John Murray has made to me, it was a duty I owed to his rank.

Sir John Murray has made great complaint of the delay in bringing forward this trial; but he must be aware that the delay has been in a great measure created by himself. The Court Martial was at first ordered to be assembled at

Tarragona, some of the Members had actually arrived there, and I had assembled the naval witnesses to attend there. The Judge Advocate in opening the Prosecution, has explained the reason of its being afterwards directed to be held in England. Sir John Murray received notification of this change so early as the 28th of July, as appears by his letter to me. This he thought proper to resist, and wrote to me to that effect, complaining of the injustice of such a determination. Perhaps it might have been less favourable to him, if it had been held at Tarragona, for that spot would have produced the fullest evidence against him. Would Sir John Murray, at Tarragona, have ventured to produce such evidence, to contradict the proximity of the high road to the beach, where the morning ride of any of the Court would have given flat contradiction to the assertion?

If the forms of a Military Court Martial would have permitted me, I would have brought proof, not opinion, that a column of the enemy's army not only could have been stopped, but that it actually was stopped by a gun-boat, under the command of Lieutenant Bowie, off Torradembara, the very spot where Captain Jacks has spoken so positively that they could not. What then would have been the effect of the concentrated fire of a first rate, and an 80 gun-ship? After the enemy had retired, Lieutenant Bowie was sent on shore, by Captain Adam, and two buckets of grape-shot picked up, on the other side of the road, and brought back to be used again.

A Court upon the spot would have known that the beach is almost always smooth in summer, and that when it is not perfectly so on one side of Cape Salou, it is so on the other. My object was to lay before the Court every fact; his to conceal; when he asks, if at all times you could carry on embarkation in the Bay of Tarragona, every man who ever saw the coast would say, certainly not; but if to throw light upon the question he had asked, could an embarkation almost always take place in the months of June, July, and August, and if not to the Eastward of Cape Salou, to the Westward, the answer would have been, certainly yes; and if to evade the true statement of facts and things, he did not call back such men as Williamson, Thackeray, and Clinton, such men as Bathurst and Inglefield he did wisely. Sir John Murray pays very little compliment to the army, for while he is treating every one of my opinions with the utmost contempt, he accuses the army of looking to them as

the standard of military perfection. He can best settle this with his own profession; if the utmost attention to their wants, if the most perfect respect to their rank and merits be a crime in a Naval Commander, I plead guilty. My desire to do every thing for the army, met a return I am proud to acknowledge. I would appeal for the truth of this to every one of the officers, I have called, and were it not for the very honourable testimony borne to my character by the Court, I should have brought ample proof in addition to Sir John Murray's own letters to disprove this assertion. Sir John Murray states in another part of his address, that the Duke of Wellington was fortunate in acting alone; that he had no Naval coadjutor to impede or thwart him, and fan the flame of discontent in the army; and says also, that I was (comparatively speaking,) little more than a spectator of events, in which my own honour was no way committed; my own responsibility no way compromised; my own safety, by which, of course, he means me to understand those under my command, were in no way endangered, or concerned.

This was the first instance I ever heard of an officer in the command of the Naval part of a conjunct expedition having no responsibility attached to his situation, or that his honour was no way committed in the expedition. I must confess that I felt differently; I felt my honour committed in the late transactions, and with those feelings, considered it my duty to write the letter I did.

Sir John Murray denies his having made any charge against me. Let the world read this, and then judge of the truth of such an assertion. Everyone has heard it, and in his ipse dixit, to contradict the voice of all, he writes a public letter acknowledging the cordial co-operation of the fleet, and a private letter to Lord Wellington, that the delay and irregularity of the Transports, was the cause of the batteries not being opened 24 hours sooner than they otherwise would have been. This I deny in toto. The Transport service was carried on to my most perfect satisfaction, and the Commanding Officer of Artillery, has acknowledged that his wants were even anticipated.

I was in hopes, that Sir John Murray would have confined his resentment to me alone. Seeing with how little candour he has directed all his attacks against me, I have learnt to bear them without emotion; but where he ventures to attack the whole profession, I am called forward to vindicate its character, against so foul, so malignant a

charge. What does Sir John Murray mean by saying, that those serving under me were not exposed to danger; when he knows there was scarcely a day passed that they were not employed in boats under the fire of the enemy's batteries, that there was no work on shore, which required assistance from the ships, that was not instantly granted, and in all working parties during the night as well as day, they shared the same dangers as the soldiers, who were employed with them? The conduct of the boats could not have escaped his observation; and if Sir John Murray, or any of his Staff had been present with the working parties at the batteries, he and they would have been convinced, that their conduct merited a different representation. If Sir John Murray considered there was no danger from an enemy on the night of the 12th, when he was abandoning every thing to its fate, the officers and seamen, both of men of war and transports, were left to share it, while the General, who strives to calumniate them, was enjoying his repose in bed, on board the Malta.

In speaking of raising the siege, Sir John Murray wishes to fix on the minds of the Court, that there could be little value attached to the few iron guns and stores which were left behind; if they are to be spoken of as to their value in pounds, shillings, and pence, their loss was not to be considered in the scale of expence to a great nation. Their loss as far as related to future operations was very material, especially from the description of gun carriages on which they were mounted; but the severest loss that accompanied them, Sir John Murray has never touched upon. There was a duty imposed upon him, paramount to every other consideration; the national honour was in his hands; the conduct of the British troops was to be an example to the Spanish army; the honour of the British military character was committed to his care; whether that has been preserved unsullied by the manner in which he directed the siege of Tarragona to be raised, it is for this Court to decide.

I must now beg leave to offer a remark on the evidence of Captain Milner, of the 18th hussars. Sir John Murray asks him if he has the means of knowing that his dispatch was written in a hurry. Captain Milner in reply states, "it was written in a great hurry. He only came on board as I was going to send a vessel away—there was no time to copy the dispatch." Who could have believed, that an officer, holding the high and honorable rank of Lieutenant General in the army, possessing the fortune, and moving in the

high circles in which Sir John Murray is in the habit of doing; who could have believed that he would have permitted his military secretary to have fallen into such a snare, for the purpose of criminating me: who could have supposed that he would have allowed him to give the answer he has given on oath, without attempting to set him right, when he knew that the original letter was in his own handwriting. No one could have believed it, had not the transaction been recorded on the minutes of this Court Martial; and, Sir, it can never be forgotten, Captain Milner was warned by me to be on his guard; it was, therefore, after mature deliberation that he has stated on oath, that he had not time to take a copy of the letter sent away, and it is afterwards proved by his own evidence, that the very dispatch, which was forwarded to Lord Wellington, was a copy transcribed by himself from the original, drawn up by Sir John Murray. As to the expressions imputed to me by Captain Milner, I do not admit that I ever made use of them, but even allowing that I did, what have they to do with the Charge against Sir John Murray. If they were uttered, it was after the troops had left Tarragona; and I could scarcely believe, that an officer who was sleeping in my cabin, and living as a guest at my table, as Captain Milner was, could, at the same time, be making remarks on my conversation, to bring forward as a Charge against me at a future period. I do not envy either Sir John Murray or his Military Secretary, Captain Milner, the consolation they may derive from the reflections on this occasion. Having thus answered the principal Charges exhibited against me by Sir John Murray, I shall pass over the minor ones, as too pitiful to merit a reply, and although the whole of them are quite irrelevant to the Charge, I have felt myself called upon to repel them, and I cannot sufficiently express my thanks to you, Mr. President, and Gentlemen of the Court, for the patience with which you have heard me.

I shall now proceed to remark on the third Charge. Sir John Murray endeavoured to offer an excuse for the precipitate manner in which he raised the siege of Tarragona; dangers and difficulties which never existed. He has endeavoured to establish a belief, that he could not have got his guns and stores on board before an enemy arrived, but he has never yet been able to prove, that an enemy was nearer on one side than Villa Franca, or that any force was even as far as Perello on the other, when he decided on leav-

ing the guns behind. It appears that Colonel Williamson pledged himself to Sir John Murray, that the guns, and all the stores, should have been brought down to the beach ready for embarkation on the night of the 12th, and I had pledged myself that every thing should have been taken off; the means I possessed were more than ample for the execution of that service. That no enemy could have been near, is evident from Sir John Murray's conduct on our arrival at Ballaguer, on the 13th. Had the people been allowed to work during the afternoon and night of the 12th of June, I am sure that every thing would have been embarked by eight o'clock in the morning of the 13th, even if it had been necessary to have kept 4000 men on shore to cover the last embarkation; General Clinton's division, amounting to 2500 men, were embarked in three quarters of an hour after their appearance on the beach; Sir John Murray decided immediately on sending for the whole army to land again. Surely, if Suchet was not too powerful for him on the 14th, when he had had time to have collected his re-inforcements, he could not have been in sufficient force on the 12th, to have created the alarm he did; and so little did Sir John Murray think of an immediate advance of Suchet, that on the evening of the 14th or 15th, he proposed to me the re-embarking the troops at Ballaguer, landing them at Cambrills, and thence to push on 5000 to endeavour to surprize Tarragona. The proposal was made on the latter part of the afternoon, on the starboard side of the Malta's quarter deck; Sir John Murray informed me, that, although we had differed respecting the raising the siege, he had only obeyed his orders, but that every thing he did now was an act of his own, and he wished to submit his ideas to me, and to have my opinion on them. He then made the above proposal, stating, that he knew the enemy had received no reinforcements, and supposing he was going away, they were off their guard; I gave it as my opinion, that, as he had not felt himself equal to such an enterprize, when he was there with his whole force, and his batteries erected, that I did not think him equal to it now, with 5000 men. Here he asked my advice, I gave it, and he followed it.

As a further proof, that there was no occasion to raise the siege in the manner it was done, I will state, that Sir John Murray did, on the 15th, land all his troops again, except a part of General Whittingham's division, with an intention of taking the field to fight Suchet. His artillery, and the remainder of the 20th dragoons, were landed on this

day. On the 16th I received an application from him to have 200 marines in readiness to put in the fort of Ballaguer, to enable him to take the field with all his force, which he had proposed doing. The marines were paraded, and kept in constant readiness to land the moment they should be called; and in the afternoon I landed two 12-pounder carronades, with 50 seamen, to serve with the army; and here I beg to call the attention of the Court to Major General Donkin's evidence, by which it appears, on the minutes of the Court, that the letter from Copons only informed Sir John Murray that the column of the enemy, at Villa Franca, was in motion, and requested the British General would give him orders respecting the line of conduct he was to pursue; but it does not tell him which way the enemy were pointing; the letter from Colonel Llauder, which is before the Court, states, that on that evening the enemy returned to Barcelona. The statement of Colonel Villamil will be seen in Colonel Williamson's evidence, wherein he relates the force of the enemy at that time to be between 5 and 6000 men, at Villa Franca. Colonel Williamson is not mistaken in the time of the Spanish officer's arrival. I was on the beach with General Donkin at half past 12 when he was speaking to me of the movements of the enemy. This induced me to look at my watch, and I informed him (General Donkin) of the hour, which makes me positive as to the time. General Donkin and myself then went together to the General's head quarters, where we met the Spanish officers; I accompanied them from thence to look for Sir John Murray, and after we met, Sir John Murray decided to embark the troops immediately, and leave the guns behind. I mention this circumstance to shew, that I could not be mistaken in the time the officer arrived, and that General Donkin has not been correct in the statement he has made of its being between eight and nine in the morning, when he met that officer, instead of 1 P. M.

As to the indecision of Sir John Murray a day did not pass without instances. He seemed to act from the spur of the moment, from the last advice or opinion he had received one while all vigour, next all doubt; one while to fight, one while to withdraw, and had he either made up his mind to fight or re-embark, all might have been well; but his constant vacillations made every measure useless, and the orders and counter-orders followed so fast upon one another, that to execute them was impossible. If so active and intelligent an officer as Lieut. General Clinton found it impossible to keep

pace with their rapidity, was it likely they could generally have been complied with?

If Sir John Murray meant to fight De Cæn, did he take any proper measure to do so; and if he did not, when he had made up his mind to re-embark, why not take proper measures to do so? But wavering between these two measures, he did neither as it ought to have been done.

If Marshal Suchet was so momentarily expected, what but insanity could have induced Sir John Murray to send his Cavalry and Artillery to Ballaguer separately, and each unaccompanied by Infantry? what but the most unwarrantable neglect, could have given rise to such extreme ignorance of the distance of the enemy, as to produce an assertion at 10 o'clock in the morning, that the enemy might be hourly expected under the walls of Tarragona; but bad as the indecision was at Tarragona, it was nothing to that at Ballaguer.

The debarkation, and the re-embarkation continually going on, was enough to confound any operations in the world; every mast-head was covered with his signals, and four fast-rowing gigs were hardly sufficient to convey his orders.

As Sir John Murray has repeatedly, in his address, alluded to the contempt in which he held my opinion on military subjects, it may not be amiss, before I conclude my reply, to adduce one more instance of his appeal to that opinion, when he considered himself in a case of difficulty.

Sir John Murray cannot have forgotten when the deserters arrived at Ballaguer on the 16th, with the account of the enemy's approach, that he immediately came off to ask my opinion of the line of conduct he should adopt. On our going on shore, he directed the Chief Engineer to point out the positions he should occupy, and having made his arrangements, he decided on waiting for the enemy.

On his expressing this determination, I took the liberty of telling him that I was sure he had an army that would do him credit; that they would do more than any army of the same number in the King's Service, because there was not a single man under him, who did not feel that he had something to recover, and the only thing he had to guard against was being persuaded to change his determination again. His reply was, that he would not change; Colonel Thackeray was present at this conversation, which circumstances now call upon me to mention, to state a new act of indecision, he decided the next morning to embark again.

The attack made upon my military witnesses, cannot

have escaped the observation of the Court ; of Colonel Williamson, he says his evidence is but repetition ; I trust it will be noticed, his was given before the evidence was canvassed in the newspapers ; General Mc Kenzie's is given with precipitation.

With respect to General Clinton's evidence, which Sir John Murray has thought fit to term an evidence delivered with asperity, and which, by the concluding questions on the Lieutenant General's first examination, it was most unjustifiable endeavoured to stamp with the impressions of having been uttered in a spirit of personal animosity against Sir John Murray, I feel myself warranted in saying that Sir John Murray had no right to put such a construction on that evidence ; circumstanced as Sir John Murray found himself, such an evidence should have been met by a disproof, not by an attempt to deny it merely, which argues a bad cause.

Nor is Sir John Murray more correct when he observes that General Clinton was the last man from whom he had a right to expect such evidence ; in this instance too I have reason to know that I am warranted in saying, that at an early period after the termination of the unfortunate expedition against Tarragona, Sir John Murray was told at Alicant, by Lieutenant General Clinton, that he did not think that the measure of abandoning his ordnance at Tarragona could be justified ; consistent with the feeling that dictated that opinion has been the evidence given by Lieutenant General Clinton, and had he been so questioned, I am confident that with the same consistency would Lieutenant General Clinton have spoken to any fact, or even to any opinion he might recollect to have held at that period, which might have been deemed advantageous to the Defence of Sir John Murray ; I must, therefore, beg again to repeat that Sir John Murray was not warranted in putting such a construction as he has endeavoured to impress on the minds of the Court and public with respect to Lieutenant General Clinton's evidence.

I must now beg the serious attention of the Court, relative to the first order sent to Lieutenant-General Clinton, on the morning of the 12th of June, inconsistent as that order was with what had appeared in evidence ; namely, that on the night of the 11th, all prospect of getting hold of Tarragona had ceased, and the embarkation of the army had been decided upon ; but setting the inconsistency aside, what will be the astonishment of the

Court, when they see Sir John Murray asserting, as he did in the statement he made on Saturday last, in reference to this order,—"that his motive in giving this order, had been to cover a retrograde movement of the division of General Copons' army, on the great road, but that the movement had been effected during the night," and the troops from Lieutenant-General Clinton's division, were not required to assist it, and the order became null from this circumstance.

I ask Sir John Murray, what movement had General Copons made during the night, to warrant such a statement on his part? Why none. Is it not in clear evidence shewn, that Captain Stoddart and Lieutenant Bowie were both in communication with General Copons at Altufalla, and at Torradembara, until sun-set on the evening of the 12th of June; and that Sir John Murray himself, had been waited upon during the day of the 12th, by an officer, Colonel Villalmil, with a letter from General Copons, dated from Torradembara, then requesting Sir John Murray's directions how to proceed? Does not this, I would ask the Court, totally disqualify the statement Sir John Murray has made, as to his motive in having given this most inconsistent order; and it having become null from the circumstance of General Copons pretended movement?

I am now drawing to a conclusion of the most painful duty that was ever imposed upon me, that of being brought forward in the character of Prosecutor, against an officer with whom I had been directed to co-operate in a conjunct expedition; and deeply as I may lament it, I have the consolation of knowing that, by the line of conduct I have pursued, I have done no more than faithfully and conscientiously discharged my duty to my country, and the profession to which I belong. I trust, however, that it will appear by the evidence of those officers who have been examined, that many instances have occurred, of Sir John Murray's indecision at times, and on occasions, where prompt measures and decisive conduct were necessary; and, consequently, that I had just reason for expressing my apprehensions, that the future movements of the army under his directions would add to its disasters.

I presume, it will also appear from the same evidence, that no measures were adopted towards raising the siege of Tarragona, previous to the order which was suddenly given in the night of the 11th to commence the embarkation;

and that Sir John Murray did precipitately order the embarkation of the troops under his command, and abandon his guns and stores without necessity, and that there was no necessity will appear by the following letter :

Malta, June 19th, 1814.

MY DEAR SIR,

I was sorry to find you had left the ship, as I wished to return you my best thanks for all your attentions to me. I assure you, I deeply regretted at the time, and on every occasion, when I felt my opinion differ from your's, as nothing was more desired by me, than the most cordial co-operation.

Upon the late business, however, anxious as I was for this cordial co-operation, the heavy responsibility which I had in delay, prevented me from adopting your opinion, which, as events have proved, might have been safely followed in the very late occurrences. I have, certainly, been the occasion of giving you a great deal of unnecessary trouble ; I assure you I am sorry for it, but I hope you will excuse it, in consideration of the anxiety under which I was labouring.

I remain ever, my Dear Sir,

Most truly your's,

JOHN MURRAY.

That there was no necessity, I trust, will also appear on the evidence before you. First, because the enemy was not nearer than Villa Franca (a distance of more than thirty miles) at the time he adopted this measure. Secondly, because, at the time, our troops were embarking, and we were destroying our guns and carriages, and, at the same time, such alarm was expressed on the beach of Tarragona for the safety of our army. The Spanish Division, under General Copons, was nine miles in our front, remaining at their post, without any apprehension for their safety. Thirdly, because the enemy was not in sufficient force to have obliged us to raise the siege in the manner we did, if even he had advanced against us.

Sir John Murray has attacked my character, not answered my Charge, and every word I have heard in the Court, convinces me more and more, that there was no necessity to raise the siege as we did ; and if facts corroborate this opinion, it is for the Court to decide whether

the measure was unnecessarily precipitate, the manner disgraceful to the British arms, and highly injurious to its faith and national character.

President. The proceedings appear to be brought to a conclusion, by the reply of Admiral Hallowell; if, therefore, nothing occurs to any Member, it will be proper to clear the Court.

The Court was cleared for deliberation.

Horse-Guards, 17th February, 1815.

At a General Court-Martial, held at Winchester, on the 16th January, 1815, and continued by adjournments to the 7th February following, Lieutenant-General Sir John Murray, Bart. was arraigned upon the undermentioned Charges, viz.

1st. "For landing, or continuing on shore, when landed, between the 7th and the 12th June, 1813, near Tarragona, a large quantity of heavy Artillery, Ammunition, and Stores, when he had good reason to believe that no real benefit could be derived for ten or twelve days, as to producing the fall of Tarragona by these means; and when he had received information, which he believed, that long before that time, a superior Force of the Enemy would be near him, and was aware that the siege must then be abandoned, knowing, at the same time, the great difficulties and dangers attending a sudden Re-embarkation on that Coast; such conduct being highly unmilitary, and against the Spirit of his Instructions."

2nd. "For neglect of Duty, and disobedience of the express written Order of His Excellency Field-Marshal the Marquess of Wellington, the Commander of His Majesty's Forces in the Peninsula, by not immediately re-embarking the whole of the Forces under his Command, after he had determined to raise, and had actually raised the siege of Tarragona, and returning to Valencia, in order to assist the Spanish Armies in that Province in securing the Positions which they might have acquired there."

3rd. "For neglect of Duty in hastily re-embarking the Forces under his Command, without any previous Preparations or arrangements, and thus precipitately and unnecessarily abandoning a considerable quantity of Artillery, Stores, and Ammunition, about the 12th of June, 1813, near Tarragona, when he was so far from being compelled to this degrading measure by the immediate approach of any superior Force, or by any other sufficient cause, that by due Zeal, Firmness, and Exertion, the greater Part, if not the whole, might have been embarked in safety, Admiral Hallowell, who was at the time on duty on the Station, engaging to effect the same: such conduct being highly to the Prejudice of the Service, and detrimental to the British Military Character."

Upon which Charges the Court came to the following decision:—

The Court having maturely weighed and considered the whole of the Evidence which has been adduced before it, is of opinion;

“With respect to the First Charge, that *Lieutenant-General Sir John Murray is Not Guilty.*”

“With respect to the Second Charge, that *Lieutenant-General Sir John Murray is Not Guilty.*”

“With respect to the Third Charge, that *Lieutenant-General Sir John Murray is Guilty* only of so much of that Charge as states, “*That he unnecessarily abandoned a considerable quantity of Artillery and Stores, which he might have embarked in safety, such Conduct being detrimental to the Service,*” and the Court does therefore find him *Guilty* of such part, but does *acquit* him of the remainder of that Charge.”

“The Court, under all the circumstances of the Case, considering the conduct of *Sir John Murray* to have proceeded from a mere error in judgment, is of opinion, and does adjudge, that, for the part of the Third Charge, of which *Lieutenant-General Sir John Murray* has been so found *Guilty*, he be admonished in such manner as His Royal Highness the Commander-in-Chief may think proper.”

His Royal Highness the Prince Regent has been pleased, in the name and on the behalf of His Majesty, to approve and confirm the Finding and Sentence of the Court; but as the Court has only attributed to *Sir John Murray* a mere error in judgment, the case has not appeared to His Royal Highness to call for any further observation.

The Commander-in-Chief directs that the foregoing Charges preferred against *Lieutenant-General Sir John Murray, Bart.* together with the Finding and Sentence of the Court, and the Prince Regent's pleasure thereon, shall be entered in the General Order Book, and read at the head of every Regiment in His Majesty's Service.

By Command of

His Royal Highness

The Commander-in-Chief,
HARRY CALVERT,
Adjutant-General.

Gordon's Hotel, Albemarle-Street, Feb. 9, 1815.

SIR—In consequence of the comments which, in the course of the recent trial, were made upon my evidence, I have to request that you will lay before his Royal Highness the Commander in Chief, my humble solicitation, that he will be pleased to allow me the earliest opportunity, by enquiry, or in such other manner as his Royal Highness may deem most expedient, of justifying my conduct, and of repelling the imputation which those comments are calculated to fix upon me.

For the purpose of enabling his Royal Highness to judge of the ground upon which I prefer this request, I will shortly state the subject and nature of my evidence.

I was examined by Sir JOHN MURRAY as to the haste with which the dispatches on the 14th of June, 1813, were sent off, and to prove that there was not sufficient time to have them copied.

I stated, in answer to the question put to me, that while I was copying the dispatch, Sir JOHN MURRAY took it from me, saying there was not time to copy it.

In the cross-examination, the dispatch sent by Sir JOHN MURRAY to Lord WELLINGTON was handed to me, and I was asked whether the body of it was not in my hand-writing, implying (as it appears by the subsequent comment made by the Prosecutor upon my testimony), that that dispatch was itself a copy taken by me, and that I had therefore contradicted myself. I told the Court distinctly that it was most certainly my hand-writing, having been transcribed by me from the letter written by Sir JOHN MURRAY himself. It was, therefore, a duplicate original, and sent as such to the Duke of WELLINGTON, (as was the former either to Lord BATHURST or yourself,) and I was in the act of making a copy into the Letter Book from one of these originals, when Sir JOHN MURRAY took it from me, before I had copied many lines of the letter with the expressions above stated. Having explained this to the Court at the time, and stated distinctly that by "Copy," I meant that which is entered in the Letter Book, I could hardly have suspected that my evidence afterwards would have been exposed to such misconstruction.

I trust this statement will fully satisfy his Royal Highness of the consistency of my answer before the Court, as it must be obvious that when speaking of the hurry, I alluded to that which in official language is always understood to

be the copy of a dispatch, viz. that which was to be preserved by Sir JOHN MURRAY, as his record, and entered in his letter-book; and every man, in the least acquainted with public business, would so understand it. That the Court clearly understood me, I am perfectly satisfied, from the assurances of all my friends who were present at the time; and that the substance of the transaction was precisely as represented by me, will appear from the proceedings, in which it will also appear that I there stated, that by "Copy" I meant that which is entered into the letter-book.

With respect to the other part of Admiral Hallowell's comments, I have the most ample means of proving, that the last imputation to which I could justly be subject is, that of having shewn any eagerness to disclose expressions which came to my ears in the course of my official situation on board the Malta; that which I did mention was in consequence of a question, that as a witness, I was obliged to answer. You will naturally suppose, that I am most anxious, personally, and for the honour of the profession to which I belong, to have an opportunity of repelling, in the same public manner in which they have been given to the world, the insinuations thrown out upon the subject of my evidence; and I therefore again solicit your laying my humble application before his Royal Highness for that purpose.

I have the honour to be, your obedient, humble servant,
CHARLES MILNER,

Capt. of the 18th Light Dragoons.

Ans To Sir Henry Torrens, K. C. B. &c. Horse Guards.

Horse Guards, Feb. 20, 1815.

SIR—Having laid before the Commander-in-Chief your letter of the 9th inst. I have it in command to acquaint you, that his ROYAL HIGHNESS would willingly give attention to a request in which your private feelings may be involved; but the matter which you refer to his ROYAL HIGHNESS's consideration not being a subject upon which he could, with any propriety, institute an enquiry, his ROYAL HIGHNESS can only assure you, that the explanation which you have given of your evidence is quite satisfactory to him.

I have the honour to be, Sir,

Your most obedient, humble Servant,

H. TORRENS.

Captain MILNER, 18th Dragoons,
Gordon's Hotel, Albemarle-street.

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